

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10315 of 2014

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Sudarshan Choudhari, Son of Late Kamta Choudhary Resident of Village- Pahrpur,
Post- Umraonganj, P.S.- Bihiya, District- Bhojpur

.... Petitioner/s

Versus

1. Birendra Choudhary @ Virendra Nath Mallah, Son of Late Kamta Choudhary
2. Jainath Chaudhary, Son of Virendra Chaudhary @ Virendra Nath Mallah
3. Bhawnath Chaudhary, Son of Virendra Chaudhary @ Virendra Nath Mallah
4. Shambhu Chaudhary @ Parmatma Chaudhary, Son of Virendra Chaudhary @
Virendra Nath Mallah
5. Ram Sumer Chaudhary, Son of Virendra Chaudhary @ Virendra Nath Mallah,
All resident of Village- Pahrpur (Chaudhary Rex Stylish Karja Bazar), Post-
Umraonganj, P.S.- Bihiya, District- Bhojpur, at present resident of Ramnagar
Colony, B.C.Road Chas, District- Bokaro (Jharkhand)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Singh, Adv.
Mr. Vivek Kumar Singh, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 28-06-2016

Heard learned counsel for the petitioner.

This application has been filed under Article 227 of the
Constitution of India by the petitioner who was plaintiff in the suit
assailing the order by which the learned court below has accepted the
written statement filed by the defendants after imposing cost.

Learned counsel for the petitioner has simply submitted that
the notice be issued to the other side. However, this Court has not

been persuaded to find any jurisdictional error or illegality in the impugned order. It is trite that the provision of Order 8 Rule 1 is directory in nature and in the present case as per the submission by the learned counsel for the petitioner the written statement has been filed after 113 days. As the learned court below has the discretion to accept the written statement filed by the defendants, this Court does not find that the prejudice would be caused to the plaintiff-petitioner if the suit is disposed of allowing the parties to lead their respective evidence.

Ex consequenti, this application is dismissed.

(V. Nath, J)

Devendra/-

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