

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.710 of 2016

=====

Ashok Kumar Shrivastava

.... Appellant/s

Versus

Md. Salauddin & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Alok

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 26-09-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 15.06.2016 passed by Civil Judge (Junior Division) Dehri-on-Sone in Title Suit No.200 of 1994 whereby the Court below rejected the application filed by the plaintiff petitioner for permission to cross-examine the last witness of the defendant.

From perusal of the impugned order, it appears that the Court below recorded a clear finding that on 02.06.2009, part cross-examination was made by the plaintiff and then the plaintiff took seven years for cross-examining the witnesses. Accordingly, the Court below refused to allow the plaintiff to cross-examine.

The learned counsel for the petitioner submitted that he is not guilty for the delay. In fact only for one day, the witness was present for cross-examination. The seven years delay was caused because of either transfer of the Presiding Officer or because of

transfer of the case to other Courts and also on many dates, the case was adjourned at the instance of the other defendants or the plaintiff. According to the learned counsel, the finding recorded by the trial Court is error apparent on the face of the record.

In view of the submission of the learned counsel that the finding of the Court below that the plaintiff took seven years to cross-examine the witness is error on the face of the record, in my opinion, the same cannot be examined in exercise of supervisory jurisdiction. However the petitioner is at liberty to bring to the notice of the Court below regarding this error as submitted by him and if such application is filed, the Court below shall dispose of the same according to law after hearing the parties without being influenced by the order passed by the Court dated 15.6.2016 and by this order of this Court.

Thus, this Civil Misc. application is disposed of with the aforesaid observation and direction.

(Mungeshwar Sahoo, J)

Sanjeev/-

U		T	
---	--	---	--