

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1583 of 2016**

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Asesar Sah & Anr

.... Petitioner/s

Versus

Jawaharlal Prasad & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Khatim Reza

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 09-01-2017 Heard the learned counsel, Mr. Khatim Reza for the
petitioners.

Perused the impugned order dated 20.08.2010 passed
by Civil Judge(Jr. Div.), Bettiah, West Champaran in Misc. Case
No.46 of 1998 whereby the learned Court below has held that the
earlier written statement filed by the petitioner is the correct
written statement and accepted the same.

It appears that the plaintiffs-respondents filed Title Suit
No.122 of 1994. The present petitioners filed written statement on
26.09.1995. Thereafter again, in 1997, another written statement
was filed by the petitioners saying that earlier written statement is
not his written statement and insisted for enquiry. This application
was registered as Misc. Case No.46 of 1998. This miscellaneous
case has been decided by the order dated 20.08.2010 and it has
been held that the written statement filed on 26.09.1995 is the



written statement filed by the petitioners.

From perusal of the order, it appears that the court below has recorded the evidences of the parties and then come to the conclusion and dismissed the miscellaneous case. However, it appears that the suit which is of the year 1994 could not be disposed of because of this miscellaneous case filed by the present petitioners and now after the finding of the court below it becomes clear that the application filed by the petitioners is frivolous and vexatious application which was filed with a view to delay the disposal of Title Suit No.122 of 1994. Because of pendency of this enquiry, the suit of the year 1994 is still at the initial stage. In other words, the petitioner has been able to delay the matter for about twenty years by filing the frivolous application and adopting the dilatory tactics.

The Supreme Court in the case of **Ram Rameshwari Devi and others v. Nirmala Devi and others, (2011) 8 Supreme Court Cases 249** has given some guidelines for shortening the civil litigations vide paragraph 52 (c). The Supreme Court has held that **imposition of actual, realistic or proper costs and/or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy**



costs would also control unnecessary adjournments by the parties. At paragraph 54, the Hon'ble Supreme Court has held that "while imposing cost, we have to take into consideration pragmatic realities and be realistic as to what the defendants or the respondents had to actually incur in contesting the litigation before different Courts. We have to also broadly take into consideration the prevalent fees structures of the lawyers and other miscellaneous expenses which have to be incurred towards drafting and filing of the counter affidavit, miscellaneous charges towards typing, photocopy, court fee etc." At paragraph 55, again it has been held "the other factor which should not be forgotten while imposing costs is for how long the defendants or respondents were compelled to contest and defend the litigation in various Courts."

In the present case, as stated above, the petitioners are adopting the dilatory tactics for filing frivolous and false application and have been able to drag the suit of year 1994 till twenty years.

Therefore, this civil miscellaneous application is dismissed with cost of Rs.10,000/- to be paid by the petitioners to the respondents within two months from today failing which the respondents shall be at liberty to realize the cost through process



of the court. The Court below is directed to proceed with the title suit for expeditious disposal.

Thus, this civil miscellaneous application is accordingly dismissed with cost as aforesaid.

(Mungeshwar Sahoo, J)

Saurabh/-

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