

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16711 of 2013

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Kamlakar Chaubey Son Of Sachidanand Chaubey Resident Of Village: Mauja
Ahirauli, P.S.: Buxar Prugana, District: Buxar.

.... Petitioner/s

Versus

1. Jitan Chaubey
2. Hirdayanand Chaybey both Son Of Late Basudeo Chaubey Resident Of Village:
Mauja Ahirauli, P.S.: Buxar, District: Buxar.
3. Awadhesh Chaubey Son Of Late Baijnath Chaubey Resident Of Village-
Ahirauli, P.S.- Buxar, District- Buxar.
4. Sri Dhawantari Aurvaid College Buxar Through Dr. Sidhnath Tiwari Resident
Of Village: Buxar, District: Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramchandra Singh, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 14-02-2017

Heard learned counsel for the petitioner.

By the impugned order, the learned court below has turned
down the prayer of the defendant-petitioner for recall of the order
debaring him from filing the written statement.

From the averments made in the petition, it transpires that the
suit has been filed in the year 1982 and the present petitioner appeared in
the suit on 18.02.2000 and thereafter a petition on 13.09.2001 was filed
by the petitioner for time to file written statement. However, no
written statement was filed by the present petitioner and ultimately by



order dated 08.01.2003 the learned court below has debarred him for filing written statement. The petitioner did not act promptly even thereafter and filed the petition on 23.02.2013 for recall of the order dated 08.01.2003 demonstrably after a lapse of 10 years. From the impugned order, it transpires that the learned court below, after considering the facts and circumstances of the case, has come to the conclusion that no such sufficient cause could be established on behalf of the petitioner for recall of the earlier order dated 08.01.2003.

After considering the submissions and perusal of the materials on record including the impugned order, this Court does not find that the learned court below has committed any error of jurisdiction or material irregularity in passing the impugned order.

The present application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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