

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.118 of 2016

- =====
1. Ram Bilas Singh
 2. Ram Singar Singh Sons of Late Thakur Dayal Singh resident of Mauza
- Karnapura, P.S. Durgwati, District - Kaimur

.... Appellants

Versus

1. Ram Eqbal Singh
2. Ram Kripal Singh
3. Ram Rekha Singh
4. Sant Bilas Singh All Sons of Late Ganesh Singh All resident of village
- Karnapura, P.S. Durgawati, District - Kaimur
5. Prem Narayan Singh
6. Ram Pravesh Singh
7. Dev Narayan Singh Sons of Late Awadhesh Singh All resident of
Mouza - Pipariya, P.S. Mohania, District - Kaimur
8. Deepak Kumar S/o Late Lalmohan Singh
9. Most. Kashmira Devi W/o Late Lalmohan Singh
10. Kiran Devi
11. Kanchan Devi Daughter of Late Lalmohan Singh
12. Krishna Bihari Singh S/o Late Kapildeo Singh All resident of Mouza -
Karnapura, P.S. Durgawati, District - Kaimur

.... Respondents

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Appearance :

For the Appellants : Mr. Ravi Shankar Sahay, Advocate
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

5 18-03-2017 Heard learned counsel for the petitioners and learned
counsel for the respondents.

The present application has been filed for quashing
the impugned order dated 16.12.2015 by which the appellate court
below has allowed the prayer of the appellant under Order 41 Rule
27 of the Code of Civil Procedure for adducing some documents
in evidence.



From the submissions on behalf of the parties and perusal of the materials on record it is evident that the plaintiff filed a suit for declaration of title and confirmation of possession over the suit land. During the pendency of the suit the plaintiff sought to adduce some documents in evidence which was not allowed by the trial court. The plaintiff approached this Court by filing an application under Article 227 of the Constitution of India in the matter but during the pendency of the said application, the suit was dismissed. The said application was thereafter dismissed as having become infructuous with liberty to the plaintiff-petitioner therein to take steps available in accordance with law. The plaintiff filed the appeal against the judgment and decree of the suit and during the pendency of the appeal filed a petition under Order 41 Rule 27 of the Code of Civil Procedure for adducing some documents in evidence. The appellate court below by the impugned order has allowed the prayer of the plaintiff-respondent for adducing the documents in evidence as prayed by way of additional evidence.

In the aforesaid fact-situation and after considering the reasons assigned by the appellant court in the impugned order, this Court does not find any illegality in the impugned order.

This Court is also not persuaded to hold that prayer



for allowing additional evidence can cause prejudice to the defendant-respondents when the liberty has been granted by the appellate court below to the respondents in the appeal for leading evidence in rebuttal. The additional evidence adduced on behalf of the appellant is to be considered by the appellate court below along with the evidence on record including the evidence which may be adduced by the respondents therein in rebuttal.

Accordingly, the present application, sans merit, is dismissed.

Learned court below is directed to expedite the proceeding of the appeal in accordance with law.

(V. Nath, J)

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