

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No. 1073 of 2016**

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1. Chhabila Prasad Yadav, Son of Late Rajbali Rai.  
2. Birendra Rai, Son of Late Pritam Rai.  
3. Narayan Rai, Son of Late Nathuni Rai.  
4. Ram Nath Yadav, Son of Late Rajbanshi Rai.  
5. Subash Yadav, Son of Late Rajbali Rai.  
6. Ramayan Rai, Son of Late Rajbanshi Rai.  
7. Umesh Rai, Son of Late Pritam Rai.  
8. Kailash Rai, Son of Late Rajbanshi Rai.  
9. Heera Lal Rai, Son of Late Nathuni Rai.  
10. Jhori Rai, Son of Late Rajbanshi Rai.  
11. Muni Devi, Wife of Late Rajbali Rai.  
All are residents of Village- Ahirauliya, Tola Rajapur, P.S. Kotwa, District- East Champaran.

12. Lawangi Devi, W/o Ram Bahadur Rai, D/o Late Nathuni Rai, resident of Village- Bherkhia, P.O. & P.S. Pipra, District- East Champaran.  
13. Dharamsheela Devi, D/o Late Rajbali Rai.  
14. Phool Kumari Devi, D/o Late Rajbali Rai.  
15. Most. Sarafia Devi, W/o Late Pritam Rai.  
16. Sona Devi, D/o Late Raj Bali Rai.  
All are residents of village- Ahirauliya, Tola Rajapur, P.S. Kotwa, District- East Champaran.

.... .... Plaintiffs/Appellants/Petitioners

Versus

Jamuna Singh, Son of Ramhit Singh, resident of Village Ahirauliya, Tola Rajapur, P.S. Kotwa, District- East Champaran.

.... .... Defendant/Respondent/Respondent

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**Appearance :**

For the Appellant/s : Mr. Vijay Shankar Shrivastava, Adv.

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**

**ORAL JUDGMENT**

**Date: 19-12-2017**

Heard both sides.

2. The petitioners have filed this petition, under Article 227 of the Constitution of India, against the order, dated 20.07.2016, passed by the learned Additional District Judge-IX, Motihari, East Champaran, in Title Appeal No. 82 of 1992, by which the petition of the petitioners, filed under



Order 41 Rule 27 of the Civil Procedure Code (*in short 'the CPC'*), has been dismissed. The petitioners are the plaintiffs. The plaintiffs filed a suit for declaration of title and confirmation of possession with regard to the lands mentioned in the Schedule of the plaint. The suit was dismissed. The plaintiffs-appellants filed an appeal, being Title Appeal No. 82 of 1992. On 14.02.2008 the appellants filed petition to allow them to adduce additional evidence, but the same was dismissed on 02.07.2008. The petitioners, thereafter, preferred Civil Revision No. 1414 of 2008, but the same was also dismissed on 01.09.2008. The petitioners again filed a petition, under Order 41 Rule 27 of the CPC, on 16.09.2011 to allow them to bring on record the documents as additional evidence and the learned court below dismissed the petition on 20.07.2016.

3. Mr. Vijay Shankar Shrivastava, learned Counsel appearing on behalf of the petitioners, submits that the petition of the petitioners, filed on 14.02.2008, was dismissed on the ground that they did not mention the specific documents to be brought on records as additional evidence. Therefore, this Court also in civil revision, *vide* Civil Revision No. 1414 of 2008, on 01.09.2008, refused to interfere into the order, but the petitioners have filed a detailed petition, annexing the documents with regard to the *Jamabandi* of the



lands and the rent receipts, which are very relevant for disposal of the appeal, but the learned Additional District Judge illegally rejected the petition, holding that the plaintiffs-appellants had sufficient opportunity to bring on record all the documents during the course of hearing of the suit and no condition for bringing on record additional evidence, as contained in Order 41 Rule 27 of the CPC, is fulfilled.

4. Mr. Vijay Shankar Shrivastava, learned Counsel appearing on behalf of the petitioners, further submits that the order is palpably illegal, but having considered the submissions of the parties, I find no force in the submissions so advanced on behalf of the petitioners. The petitioners wanted to bring on records the documents of *Jamabandi*, created by Bettiah Estate, and the land receipts, issued in favour of the petitioners on different dates. The petitioners claimed title over the land in question on the basis of the *Jamabandi*, but they did not state the facts in their plaint that the *Jamabandi* and the land receipts are not in their possession during the hearing of the suit. The suit was dismissed and the appeal was filed in the year 1992. After 16 years, the petitioners-appellants filed a petition on 14.02.2008, under Order 41 Rule 27 of the CPC, to bring all those documents on record, but the same was dismissed by the learned appellate Court, on the ground that since the



conditions enumerated under Order 41 Rule 27 (1)(a) of the CPC are not fulfilled, the petitioners have failed to bring the aforesaid documents on record, which were in their knowledge, and they could not file the aforesaid documents after exercise of due diligence. The same order was confirmed by this Court *vide* order, dated 01.09.2008, passed in Civil Revision No. 1414 of 2008, but again the petitioners filed this petition more or less stating the same facts for adducing additional evidence and the appellate Court rejected the petition of the petitioners.

5. This matter has already been set at rest by the order, dated 01.09.2008, passed in Civil Revision No. 1414 of 2008. Therefore, I do not find any jurisdictional error and material irregularity in the order, dated 20.07.2016. Thus, this civil miscellaneous application is dismissed as devoid of any merit.

**(Prabhat Kumar Jha, J)**

Praveen-II/-

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