

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3707 of 2013

=====

Pawan Kumar Tiwary Son of Braj Bihari Tiwary, resident of village- Barja, Police Station- Bihiya, District – Bhojpur.

.... Petitioner/s

Versus

Laxuman Upadhayay Son of Yamuna Upadhayay, resident of village-Barja, PS-Bihiya, Distt.- Bhojpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : M/s Rakesh Kr. Singh and Arun Kumar Singh, Advs.

For the Respondent/s : Mr. Rishikesh Ojha, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 17-11-2017

The plaintiff of Title Suit No. 106 of 1994 pending in the court of 4th Sub-Judge, Ara, is petitioner before this Court. He has filed the present application for setting aside the order dated 03.10.2012 whereby and whereunder the petition filed on his behalf on 22.05.2012 to recall the order whereunder his evidence was closed, was refused.

2. It appears that the plaintiff had filed a petition on 22.06.2011 praying therein to call for the document from the Registration Office, Ara. The defendant-respondent filed rejoinder on 19.08.2011. After hearing both sides, the Court below allowed the prayer and directed the office to issue requisition to call for the document as required by the plaintiff. The matter remained pending



for said document. The Court below as per order dated 22.05.2012, closed the evidence of plaintiff observing that since last one year, the plaintiff has not produced any witness. The observation of Court below is against the materials on record. The case was pending for the document which was called for from the District Sub-Registrar vide order dated 05.01.2012. The petitioner filed a petition dated 25.07.2012 to recall the said order, but the Court below without appreciating the fact, has refused to recall the said order as per order dated 03.10.2012. The order of the Court below is against the material on record. As such, the order dated 03.10.2012 refusing to recall the order dated 22.05.2012 is set aside and the Court below is directed to give an opportunity to the plaintiff to produce the evidence.

3. With the above direction, this application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.11.2017
Transmission Date	

