

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.536 of 2016

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1. Deo Nath Rai, Son of Late Kabilas Rai.
2. Subash Kumar @ Subash Kumar Yadav.
3. Arbind Kumar
Both Sons of Deo Nath Rai alive.
4. Nirmala Devi
5. Srimala Devi @ Seema Devi
6. Sunita Devi nos. 4 to 6 Daughters of Deo Nath Rai alive. All residents of
Village: Chakahan, P.O. Shamkauriya, P.S. Isuapur, District: Saran.

.... Plaintiffs/Petitioners

Versus

1. Nawal Rai.
2. Pramod Rai
3. Munna Rai
Sons of Late Nath Saran Rai, Residents of Village: Chakahan, P.O.
Shamkauriya, P.S. Isuapur, District: Saran.

.... Defendants/Respondents

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Appearance :

For the Appellant/s : Mr. Nagendra Rai

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 27-11-2017

Heard the learned counsel for the petitioners.

Nobody appears on behalf of the respondents.

The petitioners have filed this civil miscellaneous application against the order dated 12.04.2016 in Title Suit No.53 of 2011 by which learned Munsif IV, Chapra rejected the petition for recalling Deonath Rai to prove two sale deeds and to mark the sale deeds as exhibits, which are already on record, only on the ground that the petition was filed after much delay.

It appears that the documents sought to be exhibited in



the suit were filed after framing of the issues and prior to hearing of the suit but on account of inadvertence, those documents were not exhibited while Deonath Rai was being examined. Therefore, I find that the learned Munsif has committed jurisdictional error in rejecting the petition of the petitioner for recalling the witness to prove those two sale deeds which are on record from before.

Accordingly, the order dated 12.04.2016 is set aside with a direction to the Munsif 4th, Chapra to allow the plaintiff to examine Deonath Rai for proving two sale deeds which are already on record.

The civil miscellaneous application is accordingly allowed.

(Prabhat Kumar Jha, J)

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