

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17296 of 2013**

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1. Mofilal Yadav, Son Of Late Satya Narayan Yadav, Resident Of Village -  
Piprahiya, P.O. Nawalpur, P.S. Yogapatti, District - West Champaran

.... .... Petitioner

Versus

1. Triloki Yadav, Son Of Late Shrawan Yadav, Resident Of Village -  
Chargharwa, P.O. Dumariya Estate, P.S. Shikarpur, District - West  
Champaran

2. Ramdeo Yadav Son Of Late Shrawan Yadav Resident Of Village -  
Chargharwa, P.O. Dumariya Estate, P.S. Shikarpur, District - West  
Champaran

3. Mst. Rajshree Devi @ Rajeshwari Devi Wife Of Late Shrawan Yadav  
Resident Of Village - Chargharwa, P.O. Dumariya Estate, P.S. Shikarpur,  
District - West Champaran

4. Lalan Yadav Son Of Late Harihar Yadav Resident Of Village - Piprahiya,  
P.O. Nawalpur, P.S. Yogapatti, District - West Champaran

5. Lal Bihari Yadav Son Of Late Harihar Yadav Resident Of Village -  
Piprahiya, P.O. Nawalpur, P.S. Yogapatti, District - West Champaran

6. Shambhu Yadav Son Of Late Satya Narayan Yadav Resident Of Village  
- Piprahiya, P.O. Nawalpur, P.S. Yogapatti, District - West Champaran

7. Rambhu Yadav Son Of Late Satya Narayan Yadav Resident Of Village -  
Piprahiya, P.O. Nawalpur, P.S. Yogapatti, District - West Champaran

8. Mst. Dulari Kuer Wife Of Late Raghunath Yadav Resident Of Village -  
Piprahiya, P.O. Nawalpur, P.S. Yogapatti, District - West Champaran

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate  
For the Respondent/s : Mr. Ram Kishun Prasad, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**  
**ORAL ORDER**

4      29-11-2017                      This writ application has been filed to quash the order  
  
dated 26.07.2013 passed by learned Subordinate Judge-III,  
  
Bettiah, West Champaran in Title Suit No.274 of 2008 whereby  
  
and whereunder the petition filed by petitioner (defendant) was  
  
rejected.

2. The plaintiffs filed the aforesaid title suit seeking



injunction to restrain the defendant in interfering in peaceful possession of the plaintiffs over the land in dispute.

3. The defendant appeared and filed written statement on 15.03.2010. After closure of plaintiffs' evidence the defendant was given opportunity to adduce evidence. The defendant did not produce any witness and his evidence was closed on 04.04.2013. The said order was recalled subject to payment of cost of Rs.150/- per witness. Thereafter the defendant examined one witness Shambhu Yadav. The defendant did not produce another witness and his evidence was again closed on 17.07.2013. The petitioner filed a petition for recalling the said order dated 17.07.2013 and prayed to give him opportunity to adduce evidence which after hearing was refused.

4. Heard learned counsel for the petitioner and the respondents.

5. Learned counsel for the defendant-petitioner submitted that the documents which are proposed to be filed are essential for adjudication of issues and if the impugned order is not recalled, the petitioner would suffer irreparable loss.

6. The learned counsel for the respondents, on the other hand, submitted that on account of attitude of petitioner, his evidence was closed twice and this is his third laches and so this



application is fit to be dismissed.

7. Considering the submissions of both the parties and also for the ends of justice, the impugned order closing the evidence of defendant-petitioner is quashed subject to payment of cost of Rs.3,000/- by the petitioner to the respondents. The court below is directed to give an opportunity to the petitioner to adduce oral and documentary evidence on payment of cost within a time frame.

8. Accordingly, this writ application is allowed.

**(Sanjay Kumar, J)**

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