

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24473 of 2013

=====

Bhupendra Narayan

.... Petitioner/s

Versus

Alok Narayan & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Neeraj Kumar

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 18-09-2017 Heard learned counsel Mr. Neeraj Kumar for the petitioner and learned counsel Mr. L.N. Das for the defendants-respondents.

2. Perused the impugned order dated 23.09.2013 passed by learned Subordinate Judge-X, Patna in Title Suit No.397 of 1985 whereby the learned court below refused to recall the order dated 08.07.2013 closing the case of defendant no.3.

3. The learned counsel Mr. Neeraj Kumar appearing on behalf of the petitioner submitted that in May, 2013 the petitioner was directed to produce his evidence and in July, 2013 his case was closed. When he filed application for recall, the court below rejected the same. According to the learned counsel, the petitioner will examine himself only as witness on behalf of



defendant no.3 and undertakes that he will examine himself within one month after Durga Puja holidays.

4. The learned counsel Mr. L.N. Das appearing on behalf of defendants-respondents vehemently opposed the prayer and submitted that it is a collusive suit and, therefore, petitioner and plaintiffs are trying to delay the matter and they have already dragged the matter from 1985 to 2017.

5. From perusal of the impugned order, it appears that the court below has not considered the fact that only in May, 2013 the petitioner was directed to adduce evidence and the fact that only the petitioner will be examined as witness.

6. In view of the above facts and circumstances of the case, the petitioner be granted an opportunity to examine himself as a witness on behalf of defendant no.3. Accordingly, I direct that the petitioner must examine himself as a witness in the suit in the court below within one month after Durga Puja holidays on payment of cost of Rs.2,000/- to be paid by the petitioner to the defendant nos.1 and 2-respondent nos.4 and 5 in the court below within the said period and if the condition of this order is not complied with strictly by the petitioner, this order passed by this Court shall automatically stand recalled.



7. In the result, this writ application is allowed with the aforesaid direction and the impugned order is hereby set aside.

(Mungeshwar Sahoo, J)

Harish/-

U			
---	--	--	--

