

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.546 of 2017

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1. Chandrika Mahto, Son of Bachan Mahto, Resident of Village- Pokharia,
Post Office- Mangrahi, Police Station- Shikarpur, District- West
Champaran.

.... Appellant/s

Versus

1. Raghunath Mahto, son of Late Dasai Mahto,
2. Uma Shankar Prasad, Son of Late Manshi Jee,
3. Mohan Mahto, Son of Late Janaki Mahto,
4. Chotak Mahto, Son of Late Janaki Mahto,
5. Nagina Mahto, Son of Late Janaki Mahto, All resident of Village-
Pokharia, Post Office- Mangrahi, Police Station- Shikarpur, District- West
Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shiv Kumar Dwivedy

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 26-02-2018

Heard the learned counsel for the petitioner.

The petitioner is aggrieved by the order dated 06.02.2017 passed by Munsif, Narkatiaganj, West Champaran in Title Suit No.50 of 2012 whereby the learned Munsif rejected the petition of the petitioner-plaintiff to ask the defendants to firstly adduce their evidence in view of their assertions made in the written statement.

The learned counsel for the petitioner submits that the plaintiff filed suit for declaration of title and recovery of possession. The defendants admitted the title of the plaintiff in the



written statement but put forth a case that the ancestor of the plaintiff executed a sada sale deed in favour of the ancestor of the defendant in the year 1938 and allowed the defendants to construct their house thereon and in this view of the fact, the defendants should have been directed firstly to adduce their evidence but I do not find any illegality in the order.

The learned Munsif has rightly rejected the petition of the plaintiff to firstly direct the defendants to examine their witnesses. According to Order 18 Rule 1 C.P.C., it is the petitioner who has to adduce his evidence to prove his case and the case for recovery of possession.

Accordingly, this civil miscellaneous petition is devoid of any merit and as such, it is dismissed.

(Prabhat Kumar Jha, J)

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