

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.84 of 2016

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Din Dayal Singh Son of Late Sobhran Mahto, resident of village- Ranipur, P.S.-
Phulwarisharif, P.O.- Phulwarisharif, District- Patna

.... Petitioner

Versus

1. Satyendra Singh
2. Sanjay Singh Both Sons of Late Mahesh Singh, Resident of village Brahampur,
P.S. Phulwarisharif, District- Patna
3. Dilip Sharma
4. Pradeep Sharma Both sons of Late Ram Sewak Mistree, Both resident of
village- Sanisabad, Near Post Office, P.S.- Gardanibagh, District- Patna

.... Respondents

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Appearance :

For the Appellant/s : Mr. Dharm Narayan Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date: 30-03-2018

Heard both sides.

The petitioner has filed this Civil Miscellaneous petition against the order dated 09.02.2016 passed in Title Suit No.528 of 2009 by which the petition of the petitioner for recalling the order dated 11.09.2015 has been dismissed.

The petitioner is the plaintiff but he has not been examined during the course of hearing. The evidence of the petitioner was closed on 11.09.2015. The petitioner filed a petition for recalling the order dated 11.09.2015, by which the evidence of the plaintiff was closed as it will cause injustice to the plaintiff, who has not been examined and one more time be



given to the petitioner to adduce his evidence but the learned court below illegally rejected the petition of the petitioner.

Learned counsel for the respondents submits that sufficient opportunity has been given to the plaintiff but the plaintiff on one pretext or the other did not give his evidence and consequently the evidence of the plaintiff was closed.

Having considered the submissions of both sides, I find that the order suffers from jurisdictional error, if the plaintiff is not allowed to give his evidence. It will cause injustice to the plaintiff and he would suffer irreparable loss.

Accordingly, the order dated 09.02.2016 is set aside and this Civil Miscellaneous petition is allowed with direction to the court below to allow three months time to the plaintiff to give his evidence from the date of copy of receipt of this order, subject to the cost of payment of Rs. 500/-.

(Prabhat Kumar Jha, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02-04-2018
Transmission Date	NA

