

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.116 of 2018

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1. Keshwar Mahto S/o Late Chaliter Mahto Resident of Village - Simra,
P.O. - Srikant, P.S. - Sakara, District - Muzaffarpur.

.... Petitioner/s

Versus

1. Manjula Thakur W/o Late Pramod Thakur
2. Prema Kumari
3. Suchi Asmita Both daughters of Late Pramod Thakur resident of Village -
Simra, P.O. - Srikant, P.S. - Sakara, District - Muzaffarpur.
4. Sita Devi
5. Jafri Devi Both wife of Late Ramrup Ram
6. Manju Devi W/o Ashok Ram
7. Sanju Devi W/o Sagun Ram
8. Dukha Mahto S/o Late Bhola Mahto All residents of Village - Simra,
P.O. - Srikant, P.S. - Sakara, District - Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pawan Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 09-10-2018 The petitioner has filed this civil miscellaneous petition for quashing the order dated 25.11.2017 passed by Additional District Judge, F.T.C. XII, Muzaffarpur in Title Appeal No.5 of 1989 by which the learned Additional District Judge rejected the petition of the petitioner filed under Order 41 Rule 27 C.P.C. for adducing additional documentary evidence during the pendency of the appeal.

The relevant facts which can be summarised is as follows:

The petitioner is the appellant of Title Appeal No.5 of



1989. The plaintiff, Shail Kumari Devi filed Title Suit No.4 of 1984 for declaration of title and recovery of possession and also for mesne profits in respect of land mentioned in Schedule I of the plaint. The defendants appeared and contested the suit. The suit was decreed against the defendants. The defendants filed appeal. During the pendency of the appeal, the petitioner filed petition for adducing additional documentary evidence such as certified copy of survey khatian, comparative map, Amin's report and stated that the petitioner is illiterate and could not produce the documents during the pendency of the suit. Learned Additional District Judge after hearing both sides dismissed the petition of the petitioner on the ground that the petitioner failed to prove the relevancy of documents and the same could not be produced during the pendency of the suit in spite of due diligence of the petitioner.

Learned counsel for the petitioner submits that the learned Additional Judge failed to appreciate the facts that the documents are necessary for determination of real controversy between the parties. The C.S. khatian was prepared in the name of the grandfather of the petitioner but I find no substance in the submission of the learned counsel for the petitioner as the petitioner has failed to prove the relevancy of the documents and the fact that even after due diligence, the petitioner could not be



able to produce those documents during the pendency of the suit.

It has also been held that the defendants including the petitioner-appellant did not even challenge and produce any documents to dispute the title of the plaintiff.

Having considered the facts aforesaid, I do not find any merit in this civil miscellaneous petition and the same is dismissed.

(Prabhat Kumar Jha, J)

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