

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1637 of 2017

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1. Mahendra Paswan,
 2. Janardan Paswan @ Jalender Paswan
 3. Jai Mangal Paswan,
 4. Baleshwar Paswan, Serial No.1 to 4 sons of Late Rajdeo Bhagat @ Rajdeo Paswan,
 5. Gurudev Paswan,
 6. Alinder Paswan,
 7. Ram Shekhar Paswan,
 8. Naga Paswan, Serial No. 5 to 8 sons of Late Ram Bilash Bhagat @ Ram Bilash Paswan,
 9. Kusum Devi, Wife of Mahendra Paswan, Daughter of Late Ram Bilash Bhagat @ Ram Bilash Paswan, Resident of Village- Jumanganj, P.S.- Jamdaha, District- Vaishali.
 10. Pappu Paswan, Son of Late Harendra Paswan,
 11. Sanoj Paswan, Son of Late Harendra Paswan,
 12. Manu Paswan @ Appu Paswan, Son of Late Harendra Paswan,
 13. Most. Anjuam, Wief of Late Harendra Paswan,
 14. Rubi Devi, Wife of Wakil Paswan, Daughter of Late Harendra Paswan, Serial 13 & 14 Residents of Village- Bokarpur, P.S.+P.O.- Bakhri, District- Vaishali.
 15. Rameshwar Sah, Son of Late Balgovind Sah,
 16. Birendra Singh, Son of Krishnadeo Singh,
 17. Subodh Singh, Son of Krishnadeo Singh, Serial No.1 to 8 and 10 to 12, 15,16 & 17 Residents of Village- UDama Rekha, P.S.- Katihar (Muffasil), District- Katihar.

.... Petitioners

Versus

Baba Janardan Das, Son of Baba Saraswati Das, Resident of Village- Haflaganj, P.S.- Katihar (Muffasil), District- Katihar.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Suresh Prasad Sah @ Baranwal
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 15-05-2018

Heard learned counsel for the petitioners.

The petitioners have filed this petition against the order dated 18.07.2017 passed in Title Appeal No.03/2003 by which the



petition of the petitioners/appellants filed under Order 41 Rule 27 of the C.P.C. has been dismissed.

Learned counsel for the petitioners submits that during pendency of the appeal, the petitioners, who are the appellants filed petition that three certified copy of the sale deeds executed by Gholtu Paswan, Jangli Paswan and Narayan Paswan be taken on record as evidence. Those documents are very much essential for just decision of the case but it appears that the petitioners appeared in Title Suit No.107 of 2001 but he did not file any written statement. Consequently, the suit was allowed ex-parte. The petitioners preferred T.A. No.3/2003 and filed petition for producing three sale deeds as additional evidence in Appeal under Order 41 Rule 27 C.P.C. Learned counsel for the petitioners submits that Order 41 Rule 27 C.P.C. gives discretion to the court to allow a party to produce any evidence, if the same evidence or documents is required for the purpose of delivery of the judgment.

The sole question for consideration is whether the petition of the petitioners has got any merit. Order 41 Rule 27 C.P.C. says that parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court, But it contains three exception *a*, *aa* and *b*. *a* and *aa* does not apply in the case of the petitioners. Clause (*b*) says that the Appellate Court



requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined but from perusal of record, it appears that the Court did not find those documents to be necessary for pronouncement of judgment. Even Clause (b) of Order 41 Rule 27 CPC does apply to the case of the petitioners. The petitioners have not been able to show that their case comes within any exception. Therefore, I find no reason to interfere in the order impugned.

Accordingly, this Civil Miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2018
Transmission Date	NA

