

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1854 of 2017

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1. Smt. Reshma Sinha, Wife of Rajendra Singh, Daughter of Late Ram Briksh Singh,
2. Smt. Malti Sinha, Wife of Lalan Singh, Daughter of Late Ram Briksh Singh, Both residents of Village- Mohan Khandha, P.O.- Telmar, P.S.- Harnaut, District- Nalanda. Appellant/s

Versus

1. Nilam Kumari, Wife of Raj Kumar @ Munna Singh, Daughter of Late Ram Briksh Singh, Resident of Village- Babak, P.S.- Poonpooon, District- Patna, at present residing at Mohalla- Harishchandra Nagar, P.S.- Ramkrishna Nagar, District- Patna. Respondent/s

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Appearance :

For the Appellant/s : Mr. Suryakant Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 18-07-2018

Heard the learned counsel for the petitioners.

The petitioners are the plaintiffs in the Court below.

The petitioners have filed this Civil Misc. against the order dated 04.08.2017 passed in Title Suit No. 64 of 2009 by which the learned Sub Judge-IV, Nalanda allowed the petition of the defendants/respondent to recall the witness of the plaintiff for their cross examination on payment of cost of Rs. 4,000/-.

The learned counsel for the petitioners submits that the plaintiffs examined all their witnesses but the defendants after filing written statement stopped appearing in the suit and did not cross examine the witnesses. The defendants earlier filed a petition about the maintainability of the suit and the same was dismissed.



It is further submitted that during the pendency of the suit, when the defendants stopped appearing, the interveners, purchaser from the defendants, filed a petition under Order I Rule 10 of the C.P.C for impleading them as defendants in the suit but the same was dismissed. The interveners filed CWJC No. 13459 of 2013 but the same was also dismissed as withdrawn vide order dated 18.07.2014. It is submitted that on one pretext or the other the defendants wanted to linger the suit but I find that since the defendants could not cross-examine the witnesses of the plaintiff on the assurance of the plaintiff that they would compromise the case, the Court below rightly allowed the petition of the defendants/sole respondent to cross examine the witnesses of the plaintiffs on payment of cost of Rs. 4,000/-. If the defendant is not allowed to cross examine the witnesses of the plaintiffs, she would suffer irreparable loss and may cause injustice to her. Therefore, I do not find any illegality or jurisdictional error in the impugned order.

Accordingly, this Civil Misc. petition is dismissed.

(Prabhat Kumar Jha, J)

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