

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5327 of 2014

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1. Gyan Mahto Son of Janki Mahto
2. Ram Bhaju Mahto Son of Aklu Mahto
Both Resident of Village - Bhadai Koiri Bigha, P.S. - Giriak, District - Nalanda

.... Petitioners

Versus

Mumtaz Hasan Son of Late Abdul Ganni, Resident of Village - Pyarepur (Bhadai), P.S. - Giriak, District - Nalanda, At Present Mohalla - Bhaisasur (Koiri Takiya), P.S. - Laheri, District - Nalanda.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate

For the Respondent/s : Mr. Binit Kumar, Advocate
Mr. Pankaj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 25-01-2018 This writ application has been filed for quashing the order dated 21.01.2014 passed by Subordinate Judge, Biharsharif, Nalanda in Title Suit No.207 of 2010 whereby and whereunder the learned court below refused to review the order dated 05.08.2013 and refused to accept the document filed on their behalf as evidence.

2. Heard learned counsel for the petitioners as well as the respondent.

3. The respondent filed the aforesaid title suit for declaration of title. After filing of written statement by the petitioners, issues were framed on 07.07.2011. The evidence of plaintiff was closed on 30.08.2012 and thereafter the defendants



filed a petition on 05.08.2013 along with original documents praying therein to accept the documents in evidence. The said petition was rejected by the court below observing that these documents have been filed at a belated stage against the provision of Order 13 Rule 1 of C.P.C.

4. The learned counsel for the petitioners submits that photocopies of all the aforesaid documents were filed before the court below before settlement of issue. The petitioners had kept the original documents as the same were required to be produced before Revenue Office where computerization of land record was being carried out. The plaintiff was aware with those documents which were filed before the court below on 02.08.2011. The copies of list of documents were also served on the learned counsel for the plaintiff before the court below. It is not in dispute that the photocopies of the documents were filed immediately before commencing the evidence of plaintiff and so the plaintiff is not prejudiced in any way, if the documents are taken into evidence. The evidence of defendants has not commenced. The court below rejected the petition to review the earlier order considering the fact that there was nothing on record for considering their prayer afresh. The court below without considering the explanation of petitioners as regards filing of those



documents at belated stage has refused to accept the documents although the photocopies of all the documents were filed before commencement of trial.

5. In view of above facts and also for the ends of justice the impugned order refusing to accept the original documents produced by petitioners is set aside and this writ application is allowed.

Harish/-

(Sanjay Kumar, J)

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