

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1399 of 2016

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1. Bhol Nath Singh Son of late Ruplal Singh Resident of Village- Saroati, Tola, Alawalchak, P.S. Rampur Choaram, District Arwal.
2. Brij Nandan Singh
3. Raj Mohan Singh
4. Madheshwar Singh All are Sons of late Raghunandan Singh Resident of Village- Saroati, Tola, Alawalchak, P.S. Rampur Choaram, District Arwal.

.... Petitioner/s

Versus

1. Jadunandan Singh Son of late Chandradeep Singh Resident of Village- Saroati, tola Alawalchak, P.S. Rampur, Choaram, District -Arwal.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Prasad Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 25-10-2018 Heard learned counsel for the petitioners. Nobody appears on behalf of the respondent even after having received the notice.

The petitioners filed this civil miscellaneous petition against the order dated 20.07.2016 passed by Sub Judge I, Arwal in Title Suit No.119 of 2003 by which the petition of the petitioners for recalling the order closing the evidence of the defendants-petitioners has been rejected.

Learned counsel for the petitioners submits that the suit was pending in the Court of Sub Judge, Jehanabad but the suit was transferred to the Court of Sub Judge I, Arwal after creation of Civil Court at Arwal. The petitioners could not appear in the suit



due to mis-information and on account of laches on the part of their lawyers, therefore, the evidence of the defendants-petitioners was closed. When the petitioners came to know that their evidences were closed, petitioners filed the petition to recall the order dated 01.09.2014 and to allow the defendants-petitioners to adduce evidence but the learned Sub Judge I rejected the same. The petitioners would suffer irreparable loss and if the petitioners are not allowed to adduce evidence that will occasion in failure of justice.

Taking into consideration the facts that the evidence of the petitioners-defendants was closed and the petitioners could not be able to adduce any evidence, I find that the learned Sub Judge has committed jurisdictional error and if the order is allowed to stand, it will occasion failure of justice.

In this view of the fact, the order dated 20.07.2016 passed in Title Suit No.119 of 2003 is set aside subject to the condition of payment of Rs.2,000/- to the plaintiff within two months from the date of receipt of this order. Accordingly, this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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