

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1535 of 2016**

1. Shakuntla Devi wife of Late Lakshmi Poddar,
2. Govind Kumar son of Late Sahdeo Poddar,
3. Manish Kumar son of Late Ramanand Poddar,
4. Sunaina Devi wife of Sahdeo Poddar,
5. Arjun Poddar son of Late Ramanand Poddar,
6. Siya Ram Poddar son of Late Awadhi Poddar, All residents of -
Chaklokman, P.S.- Dalasingsarai, District- Samastipur.

... .. Appellant/s

Versus

1. Ganesh Sah son of Late Basudeo Sah,
2. Amit Prashant son of Ganesh Sah under town Dalasingsarai, Both under town
Dalasingsarai, P.S.- Dalasingsarai, District- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Surya Narayan Roy
For the Respondent/s : Mr. Arvind Kumar

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

4 07-12-2018 Heard both sides.

The petitioners have filed this Civil Misc. petition against the order dated 16.09.2016 passed in Title Suit No. 27 of 2010 by which learned Munsif rejected the petition dated 19.08.2016 filed by the petitioners for exhibiting necessary documents, which are already on record, and recalling the plaintiff for his further cross examination.

Learned counsel for the petitioner submits that due to inadvertence certain documents filed on behalf of the defendants could not be exhibited only because learned counsel for the defendants was not present on that date but when the petitioners filed petition for marking those documents as exhibits the same has been rejected on the ground that sufficient opportunity was given to the defendants for producing the documents. It is submitted that all the documents of the plaintiff were also



exhibited on the same date.

Learned counsel for the respondents submits that evidence of defendants was closed on 22.05.2012 and sufficient opportunity was given to the defendants to produce the documents and get it marked as exhibits.

It appears that the documents were produced at the time of deposition of the defendants but due to inadvertence the same could not be marked as exhibits. The court allowed the plaintiff to mark all the documentary evidence and if the defendants are not allowed to get their documents marked as exhibits it will cause occasion failure of justice.

In this view of the fact, I find that learned Munsif has committed jurisdictional error in rejecting the petition of the petitioners. Accordingly, the order dated 16.09.2016 passed in Title Suit No. 27 of 2010 is set aside. This Civil Misc. petition is allowed. The defendants are allowed to produce their documents and get it marked as exhibits within three months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

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