

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8259 of 2014

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1. Ukashi Devi Wife of Sri Rampat Sahni Village Mohammadpur Alam,
P.O- Bharwari, P.S Maniari, District- Muzaffarpur.

.... Petitioner

Versus

1. Ragho Thakur Son of Parmeshwar Thakur, resident of Village
Mohammadpur Alam, P.O- Bharwari, P.S- Maniari, District- Muzaffarpur.
2. Sri Lalmuni Singh
3. Shri Ram Kalash Singh
4. Sri Raju Singh
All Sons of Late Jhapas Singh Resident of Village Sonvarsha Dih, P.O-
Sonvarsha Dih, P.S- Maniari, District- Muzaffarpur.
5. Parmeshwari Devi Wife of Late Ramdeo Singh, daughter of Dhanukhiya
Devi @ Anupia Devi resident of Village Sadikpur, Maraul, P.O- Sadikpur
Maraul, P.S- Sakra, District- Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar @ Vijay Kr. Singh, Advocate
For the Respondent/s : Mr. A.K. Alok, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

7 23-03-2018 The petitioner is defendant 1st party of Title Suit No.101
of 2004 pending in the Court of Munsif (West), Muzaffarpur. He
has filed this writ application for quashing the order dated
03.10.2013 whereby and whereunder the written statement filed
by the defendant no.5 was accepted subject to payment of cost of
Rs.800/- to the defendant 1st party and defendant 2nd party.

2. Heard learned counsel for the petitioner and perused
the record.

3. It appears that the respondent no.1 filed the aforesaid
title suit on the file of Munsif for declaration of title and recovery



of possession over the suit property. The plaintiff sought relief for declaration of the sale deed dated 03.01.1983 as illegal and void. The defendant appeared and filed written statement. The court below framed issues on 21.05.2008. After closing the evidence of both the parties, the defendant no.5 filed written statement and prayed to accept the same. The court below after hearing the parties accepted the written statement.

4. The learned counsel for the petitioner submits that the defendant no.5 appeared in the suit on 08.11.2004 but he did not file written statement. He filed a petition on 08.10.2012 seeking time for filing written statement after eight years of his appearance which was rejected as not pressed on 14.12.2012. Thereafter he filed written statement on 09.01.2013 and an application on 05.02.2013 to accept the said written statement. It further appears that the defendant no.5 has not given any satisfactory explanation for not filing written statement for such a long period of eight years. The defendant no.5 filed written statement after closing the evidence of both the parties when the case was pending for argument. The defendant no.5 had appeared in the suit on 08.11.2004 and she was debarred from filing the written statement. The court below without considering the provision of Order 8 Rule 1 of the C.P.C. and assigning any reason has



accepted the written statement of defendant no.5 at the fag end of trial.

5. In view of above facts, the impugned order accepting the written statement at the time of argument without assigning any reason is not sustainable. The impugned order is accordingly set aside and this writ application is allowed.

(Sanjay Kumar, J)

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