

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15840 of 2010

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Raj Narayan Paswan S/O Late Nagina Paswan, R/O Vill.- Thahra, P.O. and P.S.-
Maker, Distt.- Saran.

.... Petitioner

Versus

1. Janardan Singh @ Jannu Lal Singh S/O Late Bacchu Singh, R/O Vill.- Kasma
Maker, Tola- Rukunbadha, P.O. and P.S.- Maker, Distt.- Saran.
2. Deep Narayan Paswan @ Deepak Paswan S/O Late Nagina Paswan R/O Vill.-
Thahra, P.O. and P.S.- Maker, Distt.- Saran.
3. Bhanarayan Paswan S/O Late Nagina Paswan R/O Vill.- Thahra, P.O. and P.S.-
Maker, Distt.- Saran.

.... Respondents

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Appearance :

For the Petitioner/s : Mrs. Sangeeta Sharma, Advocate
For the Respondent/s : Mr. Shantanu Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-07-2018

Petitioner before this court is opposite party in
Miscellaneous Case No.14 of 2009 pending before Munsif II, Chapra
(Saran). The said miscellaneous case has been filed by respondent
no.1 against the petitioner for disobedience of injunction order.

2. It is alleged that this petitioner in spite of service of
notice did not appear and the case was fixed for ex-parte hearing as
per order dated 27.04.2009. The petitioner being opposite party filed
a petition on 01.08 .2009 praying therein to recall the said order and
permit him to contest the case. The court below after perusing the
record observed that the petitioner received the notice under his
signature which on comparison with vakalatnama was found to be in



his writing and accordingly rejected the petition as per the impugned order dated 07.11.2009. While rejecting the prayer of petitioner, the court below has observed that the petitioner has not assigned any reason for not appearing before the court below on earlier occasion. The petitioner, however, denies his signature on the service report. From the record, it appears that the petitioner did not appear immediately rather appeared after few adjournments and if the petitioner is not permitted to contest the said case, he would be seriously prejudiced.

3. In the above facts and circumstances of the case and also for the ends of justice, the impugned order refusing to permit the petitioner to contest the miscellaneous case by recalling its order fixing ex-parte hearing is set aside subject to payment of cost of Rs.2,000/- to the respondent, who is petitioner before the court below in Miscellaneous Case No.14 of 2009.

4. This writ application is, accordingly, allowed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	06.08.2018
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