

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25589 of 2013

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1. Ram Peyare Yadav S/O Late Ramkrit Yadav R/O Village - Ghanghala Tola, Gulzarbag, P.O. - Sanda, P.S. - Tekari, District – Gaya.
 2. Shayam Peyare Yadav S/O Late Ramkrit Yadav R/O Village - Ghanghala Tola, Gulzarbag, P.O. - Sanda, P.S. - Tekari, District – Gaya.
 3. Parwati Devi Wife Of Late Ramkrit Yadav R/O Village - Ghanghala Tola, Gulzarbag, P.O. - Sanda, P.S. - Tekari, District – Gaya.
 4. Rausham Kumari D/O Late Ramkrit Yadav R/O Village - Ghanghala Tola, Gulzarbag, P.O. - Sanda, P.S. - Tekari, District – Gaya.
 5. Tileshwari Devi W/O Ganesh Yadav
 6. Dewanti Devi W/O Ram Ekwai Yadav R/O Village Kharuchak Mathia, P.O. Soharaiya, P.S. - Sakurabad, District – Jehanabad.
 7. Shushama Devi W/O Niwash Yadav R/O Village - Bartarwa, P.O. - Telha, P.S. - Tekari, District – Gaya.

.... Petitioners

Versus

1. Indradeo Sharma S/O Late Rameshwar Sharma R/O Village - Ghanghaila, P.O. - Sadnda, P.S. - Tekari, District – Gaya.
2. The State of Bihar (Through Collector) Gaya.
3. Anchal Adhikari, Tekari, P.S. - Tekari, District – Gaya.
4. District Gram Panchayat Officer, Gaya , District - Gaya.

.... Respondents

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Appearance :

For the Petitioners : Mr. Dharendra Kumar Sinha, Advocate
For the Respondents : Mr. Sharda Nand Mishra, Advocate
Mr. Dhananjay Kumar Gupta, Advocate
Mr. Deepak Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

6 25-01-2018 This writ application has been filed to quash the order dated 13.09.2013 passed by Munsif-III, Gaya in Title Suit No.19 of 1998 whereby and whereunder the evidence of these petitioners (defendants) was closed.

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



3. The respondents 1st set filed the aforesaid title suit against the petitioners and the State of Bihar for declaration of title besides other relief. In course of hearing, the original defendant Ramkrit Yadav died and at this place his heirs were substituted as respondent nos.1 to 4.

4. It appears that the respondents 1st set filed the aforesaid title suit in the year 1998. The evidence of plaintiff commenced in 2005 and was closed on 31.07.2008. The case was adjourned to 29.08.2008 on the prayer of defendants. As the defendants did not produce any evidence, their evidence was closed on 23.09.2008.

5. It has been submitted that the record of Title Suit No.19 of 1998 was called for in Civil Revision No.287 of 2000 and it remained pending for years in different courts and so the defendants could not be able to adduce evidence. The defendant Ramkrit Yadav was suffering from cancer and severe heart ailment and in course of treatment he died. The defendants filed a petition to recall the said order dated 23.09.2008 whereunder their evidence was closed. The State of Bihar also filed a petition for giving them an opportunity to adduce evidence. The evidence of State of Bihar was closed on 14.08.2013. The learned court below rejected the prayer of the petitioners observing that the evidence



was closed on 28.09.2008 but petition to recall the said order was filed on 02.01.2009. The said petition remained pending for years, which shows that the defendants had no interest in contesting the case and accordingly the court below refused to recall the said order. The petitioners are substituted defendants and they want to contest the case. They claim that they are in possession of suit land on the basis of settlement made by the State of Bihar and the plaintiff has no right, title or possession over the suit land. The plaintiff without having any right or title wants to dispossess the petitioners. The petitioners are willing to contest the case by adducing oral and documentary evidence.

6. In the aforesaid facts and circumstances and also for the ends of justice the impugned order refusing to recall the order closing the evidence of defendants and also the order whereunder the evidence of defendants was closed are set aside and the court below is directed to give an opportunity to both sets of defendants to adduce evidence within a time frame.

7. This writ application is, accordingly, allowed.

(Sanjay Kumar, J)

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