

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15960 of 2010

=====

Bachchan Choubey Son of late Satram Choubey Resident of Village- Bhaghini
Kala, P.S. Mohania, District- Kaimur at Bhabua.

.... Petitioner/s

Versus

1. Dindayal Dubey @ Ramdayal Dubey S/O Late Ramnath Dubey R/O Vill
Bhaghini Kala, P.S. Mohania, Distt-Kaimur At Bhabua
2. Kamalakar Choubey, son of Late Shriram Choubey, resident of village-
Bhaghini Kala, P.S. Mohania, District-Kaimur at Bhabua.
3. Prabhakar Choubey, son of Late Shriram Choubey, resident of village-Bhaghini
Kala, P.S. Mohania, District-Kaimur at Bhabua
4. Most. Dhanraji Kuer Wife of late Shri Ram Choubey Resident of Village-
Bhaghini Kala, P.S. Mohania, District- Kaimur at Bhabua.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. RAJANI KANT PANDEY, Advocate
For the Respondent/s : Mr. None.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 20-08-2018

Petitioner before this Court is defendant no.4 of Title Suit
No.324 of 1999 pending in the Court of Sub Judge-II, Kaimur at
Bhabua. He has filed this application for quashing the order dated
13.05.2009 whereby and whereunder the court below refused to admit
the documents filed by the petitioner.

2. Heard learned counsel for the petitioner.

3. It appears that the respondent no.1 filed the aforesaid suit
for declaration of his title over the land mentioned in schedule given
at the foot of the plaint. In course of trial, the petitioners filed some
document as per list on 27.05.2008, i.e., before closing the evidence



of plaintiff. The petitioner filed a petition on 17.03.2009 to mark the said documents as exhibits which has been rejected.

4. It has been submitted that the said documents were misplaced and he filed the same immediately at the stage when the evidence of plaintiff was going on. From Annexure-2, it appears that the petitioner had filed copy of Revisional Survey Khatian, rent receipts, Register-2 and some other documents. According to the petitioner some of the documents are public documents and some are 30 years old and all the documents are admissible in evidence. The only grievance of the plaintiff/respondent is that on account of accepting those documents in evidence, the plaintiff would be seriously prejudiced as they would not get chance of rebuttal. The court below accordingly dismissed the said petition.

5. On perusal of impugned order, I find that the documents were already on record before closing the evidence of plaintiff. The petition for marking the documents was filed after closing the evidence of plaintiff. It further appears that as per claim of petitioners, some of the documents are public documents and some are 30 years old.

6. In view of submissions of learned counsel for the petitioners and also for the ends of justice, the impugned order refusing to accept the documents in evidence is set aside subject to



payment of cost of Rs.3,000/- to the respondent/plaintiff before the court below. The court below is directed to give a chance of rebuttal to the respondent/plaintiff if he desires.

7. This application is accordingly allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.08.2018
Transmission Date	N/A

