

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12275 of 2015**

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Shatrughan Rai Son of Vira Dayal Rai, Resident of Village- Bagar, P.S  
Sikarhatta, District Bhojpur.

... .. Petitioner

Versus

1. Ram Chandra Rai son of late Brahmdeo Rai, Resident of Village Bagar, P.S  
Bagar, District Bhojpur.
2. Bharat Rai son of Late Vira Dayal Rai
3. Ramanand Rai son of late Dhanardhan Rai
4. Ram Ayodhya Rai Son of late Chhathi Rahi
5. Sheopujan Rai son of Late Bharisha Rai
6. Ram Naresh Rai Son of late Udho Rai
7. Ranji Rai Son of late Ram Adhar Rai
8. Most. Ramjhari Kunwar S/o late Ram Ashish Rai
9. Vijay Rai S/o late Gupteshwar Rai
10. Alakh Deo Rai S/o late Ram Sakal Rai
11. Muktddeo Rai S/o late Ram Sakal Rai
12. Mokhtar Rai S/o late Triveni Rai
13. Birendra Rai S/o late Triveni Rai
14. Ram Murat Rai S/o late Ishwar Rai
15. Surendra Rai S/o late Butan Rai
16. Mahendra Rai S/o late Butan Rai
17. Satyendra Rai S/o late Butan Rai  
All resident of Village -Bagar,P.S. Sikarhatta, District Bhojpur.
18. Kusum Kunwar W/o late Ramanuj Rai, Resident of Village- Parasiyan ,P.S.  
Jagdishpur, District Bhojpur.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr.Ravindra Kumar, Advocate  
For the Respondent/s : Mr.Mrigendra Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**  
**ORAL JUDGMENT**

**Date : 20-12-2018**

Petitioner is defendant no.2 in Title Suit No.438 of  
2010 pending in the court of Subordinate Judge I, Ara. He has filed  
this writ application for quashing the order dated 11.07.2014  
whereby and whereunder his prayer to recall the order dated



08.07.2013 and to accept the written statement filed on his behalf was rejected.

2. Heard learned counsel for the petitioner and the respondents.

3. It appears that the defendants appeared on 14.12.2011 and after their appearance they took several adjournments to file written statement and after seven months they filed written statement on 07.08.2013 which was not accepted.

4. It has been submitted that the petitioner was not aware about the date of hearing of petition dated 16.08.2012 as the court was vacant. From the impugned order, it appears that the learned court below rejected the prayer of petitioner only for the reason that his predecessor had already rejected the written statement filed by the petitioner and further that no cogent reason was assigned by the petitioner to recall the said order.

5. On going through the copy of order sheet on record and submission of both parties, I find that the petitioner was not aware of the order rejecting the written statement and the court remained vacant on several dates. The reason assigned for rejecting the petition to recall its earlier order appears against the materials on record.



6. For the reasons stated above, the impugned order is set aside and this writ application is allowed subject to payment of cost of Rs.4000/- to the plaintiffs-respondents. The court below is directed to expedite the trial after accepting the written statement.

**(Sanjay Kumar, J)**

Harish/-

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