

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14379 of 2012

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1. Kamdeo Yadav Son of Yuvraj Yadav. R/O - Vill. Batpar, Tola - Kokahara, P.O. - Sarswati Batpar, P.S. - Chakai, Distt. – Jamui.
 2. Dashrath Yadav Son of Yuvraj Yadav R/O - Vill. Batpar, Tola - Kokahara, P.O. - Sarswati Batpar, P.S. - Chakai, Distt. – Jamui.

.... Petitioners

Versus

1. Shakunti Devi Wife of Late Baldeo Yadav, Resident of Village - Simariya, Tola - Barakola, P.O. - Sarswati Batpar, P.S. Chakai, District – Jamui.
2. Haro Yadav Son of Late Baldeo Yadav Resident of Village - Simariya, Tola - Barakola, P.O. - Sarswati Batpar, P.S. Chakai, District – Jamui.
3. Manoj Yadav Son of Late Baldeo Yadav Resident of Village - Simariya, Tola - Barakola, P.O. - Sarswati Batpar, P.S. Chakai, District – Jamui.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-10-2018

Petitioners before this court are plaintiffs in Title Suit No.10 of 2007. They have filed this writ application for quashing the order dated 25.05.2012 whereby and whereunder their evidence was closed and the case was fixed for evidence of defendants.

2. Heard learned counsel for the petitioners. Nobody appeared for the respondents.

3. It appears that after filing of written statement, the court below framed issues on 02.02.2012 and thereafter the petitioners filed list of witnesses and documents on 17.02.2012 and 15.03.2012 respectively. The defendants also filed list of their witnesses on the same date i.e. 15.03.2012. The plaintiffs examined two witnesses on



12.04.2012 and 10.05.2012 and as they did not produce any witness on the following date i.e. 25.05.2012, their evidence was closed and the case was fixed for evidence of defendants.

4. It has been submitted that the conducting lawyer of the petitioners was ill and so nobody was there in the court below to respond the case when it was called. The petitioners have not committed any laches deliberately in examining the witness.

5. On perusal of impugned order, it appears that after closure of evidence, the petitioners filed a petition supported with an affidavit praying therein to recall the order dated 25.05.2012 immediately on the following day which shows that the petitioners were diligently prosecuting with the case. The petitioners are willing to examine their witnesses without causing any delay within a time frame to be fixed by the court below.

6. In view of above facts and also for the ends of justice, the impugned orders dated 25.05.2012 and 10.07.2012 are set aside and this writ application is allowed. The learned court below is directed to give an opportunity to the petitioners (plaintiffs) to examine their witnesses.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.10.2018
Transmission Date	

