

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1275 of 2018

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1. Hari Prasad Sharma @ Hari Pramod Sharma Son of Late Kolkhu Mandal,
Resident of Village-Jai Mangal Tola, P.S. Ismailpur (Gopalpur), District-
Bhagalpur.

.... Appellant/s

Versus

1. Daya Nand Mandal Son of Late Dasu Mandal.
2. Kapildeo Mandal, Son of Late Dasu Mandal.
3. Raj KUMar Mandal, Son of Late Bisu Mandal.
4. Bijay Mandal Son of Late Bisu Mandal.
5. Jawahar Mandal Son of Late Bisu Mandal Respondent nos. 1 to 5
residents of Village-Jai Mangal Tola, P.S. Ismailpur (Gopalpur), District-
Bhagalpur.
6. Most Sumitra Devi, Wife of Late Saryug Mandal
7. Muneshwar Sharma, Son of Late Saryug Mandal.
8. Lulha Sharma, Son of Late Saryug Mandal.
9. Sarwan KUMar Sharma, Son of Late Kolkhu Mandal, respondent nos 6 to
9 Resident of Village-Jai Mangal Tola, P.S. Ismailpur (Gopalpur), District-
Bhagalpur.
10. Smt. Basia Devi, Daughter of Late Kolkhu Mandal, Wife of Late
Mahendra Mandal, Resident of Village-Gangapur Lauria Chak Basa, P.S.
Ratwara, District-Madhepura.
11. Sumia Devi, Daughter of Late Etwari Mandal, Wife of Gaso Mandal,
Resident of Village-Fulkia, P.S. Ismailpur, District- Bhagalpur.
12. Rabia Devi, Daughter of Late Etwari Mandal, Wife of Mahendra
Mandal Resident of Village-Babupur, P.S. Sabour, District-Bhagalpur.
13. Shankar Mandal, Son of Late Etwari Mandal, Resident of Village-
Jaimangal Tola, P.S. Ismailpur (Gopalpur) District-Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 14-09-2018

Heard the learned counsel for the petitioner.

The petitioner has filed this Civil Misc. petition
against the order dated 17.07.2018 passed in Title Suit No. 59 of
1992 by which the court allowed the defendant 1st set/ petitioner to
cross examine Pradeep Mandal, plaintiff witness, at his own cost.



The learned counsel for the petitioner submits that petitioner is the defendant 1st set. The plaintiff filed petition for cross examination of his witness on commission but the court directed the petitioner to pay cost of the commission.

It appears from perusal of the impugned order that plaintiff witness, Pradeep Mandal, was present on 25.05.2001 but the defendant 1st set did not appear and consequently the witness, Pradeep Mandal, was discharged. Now the defendant filed petition to allow him to cross examine the witness. On such, the plaintiff disclosed that his witness, Pradeep Mandal, is old, infirm and unable to move therefore he may be examined on commission. On such petition, the court allowed the petitioner/ defendant 1st set to cross examine the witness after paying cost of the commission.

Since the witness was discharged due to laches of the petitioner/ defendant 1st set, I find that the court has rightly directed the petitioner to pay cost of the commission for cross examination of plaintiff witness, Pradeep Mandal. Accordingly, I do not find any jurisdictional error in the impugned order. This Civil Misc. petition is dismissed.

(Prabhat Kumar Jha, J)

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