

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1278 of 2017

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1. Smt. Anita Kumari W/o Sri Sushil Kumar Yadav D/o Raghu Nandan Yadav Resident of Mohalla- Madhubani, Maa Kali Ashthan, Near R.K.K. College, P.O. Madhubani, P.S.-Khajanchi Hat, Distt.-Purnia.

.... Appellant/s

Versus

1. Sri Sanjay Kumar S/o Sri Sudhir Praasd Yadav, Mohalla-Madhubani Kali Prasad Yadav Tola, P.S.-Khajanchi Hat, Distt.-Purnia.
2. Smt. Kajal Devi W/o Sri Pawan Kumar Arbind resident of Simalgachhi, P.S.-Ranipatra Muffasil, Dist. Purnea, At Present Resident of Viveka Nand Colony, P.S.-Khajanchi Hat (Sahayak), Distt.-Purnia.
3. Sri Jeebachh Kumar Yadav
4. Sri Abhishek Kumar Yadav @ Chhote Lal Yadav
5. Smt. Reeta Devi
6. Smt. Ramni Devi
7. Smt. Phuhri Devi Respondent nos. 3 to 7 are Sons and Daughter of Sri Madho Yadav Resident of Mohalla-Madhubani Kali Prasad Yadav Tola, P.S.-Khajanchi Hat, Distt.-Purnia, Respondent nos. 3 to 6 At Present residents of Village-Budhia Gola, Dhankata, P.S.-Sarsi, Dist.-Purnia.
8. Smt. Punam Devi W/o Sri Naresh Mohan Mandal Resident of Village-Sukhsena Kailu Tola, P.S.-Barchara, Dist.-Purnia.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nitesh Kumar

For the Respondent/s : Mr. Vikram Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

4 13-07-2018

Heard both sides.

The petitioner has filed this Civil Misc. petition against the order dated 04.07.2017 passed by learned Sub-Judge-I, Purnea in Title Suit No. 56 of 2016 by which the petition of the petitioner to accept her written statement after recalling the order dated 19.12.2016 has been dismissed.

The petitioner is defendant No.6 in the Title Suit.



Admittedly, the petitioner appeared on 11.07.2016 but she could not file her written statement within 90 days from the date of her appearance and consequently the petitioner was debarred from filing written statement vide order dated 19.12.2016.

The learned counsel for the petitioner submits that irreparable loss would be caused if the petitioner is debarred from contesting the suit. Of course, the petitioner could not file written statement on account of non availability of some documents and she also could not file any petition for time seeking permission to file written statement but in the interest of justice the petitioner should be allowed to file written statement and the same may be accepted.

Contending the submission of learned counsel for the petitioner, the learned counsel for the respondents submits that no reason has been given in the petition to accept the written statement filed beyond the prescribed period.

Having considered the submissions of both sides and on perusal of records, I find that, of course, the petitioner filed written statement after six months from the date of her appearance but the petitioner has stated in the petition that due to lack of some documents she could not be able to file her written statement in time. Hence, I find that learned Subordinate Judge has committed



jurisdictional error in rejecting the petition of the petitioner to accept her written statement. Accordingly, the order dated 04.07.2017 is set aside subject to the condition that petitioner shall pay a cost of Rs. 2000/- to the plaintiff and thereafter the written statement of the petitioner shall be accepted.

This Civil Misc. petition is, accordingly, allowed.

(Prabhat Kumar Jha, J)

BKS/-

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