

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20193 of 2014

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Phool Kumar Sah son of Late Musharu Sah Resident of Village- Dakshin Maheshwari, P.S. Jogbani, District- Araria

.... Petitioner/s

Versus

1. Bibi Rukshana Khatoon Wife of Mintullaha Ansari Resident of Village- Haziganj, P.S. Jogbani, District- Araria
2. Sadanand Sah Son of Late Mushaharu Sah, Resident of Village- Dakshin Maheshwar, P.S. Jogbani, District-Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Shankar Sah, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 31-10-2018

Petitioner before this Court is plaintiff of Title Suit No.58 of 2007 pending in the court of Sub Judge-IV, Araria. He has filed this application for quashing the order dated 26.05.2014 and subsequent order dated 08.07.2014 whereby and whereunder the learned court below refused to reopen the evidence of the petitioner for taking some documents in evidence.

2. Heard learned counsel for the petitioner and perused the record.

3. The petitioner filed the aforesaid suit for declaration that the suit land belongs to plaintiff and the



defendant no.1 has not acquired any right and title on the basis of registered sale deed dated 16.10.2004 purported to be executed by defendant/second party.

4. It has been submitted that the land in dispute belongs to the petitioner which was acquired by him by virtue of registered sale deed dated 12.02.1974. The land in dispute was subject matter of Title Suit No.59 of 1981 which was disposed of by the court of Sub Judge-IV on 04.09.1993 on the basis of compromise. In the said suit, the defendant second party was also party to the suit as defendant no.46 and title of the petitioner was declared in his presence. The defendant second party having no right, title or possession over the land in dispute, sold the same to the defendant no.1. The petitioner in order to prove his title wants proof of the rent receipt and a deed of lease in order to show that the respondent (defendant no.1) was his tenant. The said document was misplaced and on search he could be able to file the same along with a petition praying therein to admit those documents. These documents appear essential for adjudicating the dispute between the parties.



5. On perusal of impugned order, it appears that the petitioner filed the petition on 04.04.2014 praying therein to reopen the case. The case was adjourned to 09.04.2014, 11.04.2014, 16.04.2014, 21.04.2014 and 25.04.2014 for filing rejoinder on behalf of the respondents. The respondents did not file rejoinder and on 26.05.2014, the learned court below rejected the petition observing that the said petition was not pressed by the petitioner and the plaintiff is deliberately prolonging the disposal of the suit. This observation is against the material on record as the case was adjourned on several dates for filing rejoinder by the respondents.

6. In view of above facts, the impugned order is set aside and this writ application is allowed. The learned court below is directed to give an opportunity to the petitioner to get the documents in question exhibited.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
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