

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24356 of 2013

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Nand Kishore Singh, son of late Ram Padarath Singh, resident of village-
Sambho P.S. Nayagaon, District-Begusarai

... .. Petitioner/s

Versus

1. Ramanand Singh, son of Late Ram Bilash Singh &
2. Mannu Kumar Singh, son of Late Ramanuj Singh, both residents of village-
Sadanandpur P.S. Balia, District-Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushmita Mishra
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

6 16-03-2018 This application has been filed by the plaintiff of Title Suit

No.209 of 1999 pending in the Court of Sub Judge-V, Begusarai

for setting aside the order dated 06.08.2013 whereunder the

petition filed by the plaintiff for rejecting the affidavit of

defendant's witness or to keep the matter pending till the

examination of defendants as witness, was rejected.

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

3. It appears that this petitioner filed the aforesaid suit
against the respondents for declaration of title over the land
measuring 15 dhurs as mentioned in schedule-B of the plaint
and also relief restraining the defendants from going over the
suit land. After filing of written statement, hearing commenced
and the plaintiff examined their witnesses. After closing the case



of plaintiff, the defendants filed a petition on 03.11.2011 for appointment of pleader commissioner for recording the evidence of defendant no.1 Ramanand Singh. The petitioner filed rejoinder and the court below allowed the petition and the defendant no.1 was permitted to be examined by pleader commissioner. The defendants without examining themselves in the case, produced another witnesses for his evidence. I find that the impugned order was passed on 06.04.2013 and even after passing over a period of four years, the case is pending for evidence of defendants. The grievance of the petitioners is that the case is being prolonged by the defendants only to harass the petitioners.

4. Be that as it may. The order directing the evidence of defendant to be recorded on commission was passed on 06.4.2013 and even after passing over a period of four years, the case is still pending for evidence of the defendants. The order permitting the defendants for his examination on commission and accepting the evidence of other witnesses does not suffer any illegality requiring any inference.

5. In view of above facts I find that the court below has not committed any jurisdictional error in rejecting the said petition. In the facts and circumstances of the case, the court



below is directed to give an opportunity to the petitioner to cross-examine the witness who have been discharged, and further to expedite the trial and dispose it of at the earliest, preferably within six months from the communication of this order. This application is dismissed with the above observations.

(Sanjay Kumar, J)

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