

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1493 of 2016**

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Vijay Sah Son of late Yadev Lal Sah Resident of Village- Balthar, P.S.-
Balthar, District- West Champaran.

... .. Petitioner/s

Versus

1. Paryag Sah Son of late Baij Sah(Late)
2. Vingu Sah@Jhotil Sah S/o Paryag Sah
3. Bachchu Sah S/o Paryag Sah all resident of Village- Balthar, P.O. Bhaura, P.S.
Balthar, Anchal- Sikta, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bimlesh Kumar Pandey
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 04-12-2018 Heard Mr. Bimlesh Kumar Pandey, learned counsel
for the petitioner and Mr. Umesh Chandra Verma, learned
counsel for the respondents.

By the impugned order, the petition of the petitioner-
plaintiff for recalling the order dated 04.08.2016, by which his
evidence was closed, has been rejected and further petition of
the petitioner for exhibiting the sale deed and other documents
as exhibits has also been rejected.

Learned counsel for the petitioner submits that the
petitioner is ready to adduce all his evidences within three
months and if the petitioner is not allowed to examine his
witnesses and produce the documents, relevant for the decision
of the case, that will occasion failure of justice.



Mr. Umesh Chandra Verma, learned counsel for the respondents while supporting the order of the court below submits that sufficient opportunity was given. On 14.01.2016, the petitioner was directed to produce all the witnesses but the petitioner did not examine any witness.

From perusal of the records and the order impugned, I find that the petitioner of course committed some lapses but if the petitioner is not allowed sufficient opportunity to adduce his oral as well as documentary evidences that will occasion failure of justice and to avoid failure of justice, I find it proper to set aside the order dated 02.09.2016 and allow the petitioner to adduce all his oral and documentary evidences within three months from the date of receipt of this order subject to the condition of payment of Rs.1,000/- to the defendant. Accordingly, the order dated 02.09.2016 is set aside. With the aforesaid direction, this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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