

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.75 of 2018

=====

Naila Sumbule, Wife of Syed Mohammad Sharique Alam Resident of
Mohalla-Chuna Gali, Rai Baijnath Singh Lane, P.S.-Kotwali, Town and
District Gaya.

... .. Appellant/s

Versus

1. Md. Ehteshan Son of Late Abdul Lateef Resident of Mohalla-Aliganj, P.S.-
Chandauti, Town and District Gaya, at Present residing at Mohalla-Dr. Wazir
Ali Road, P.S.-Kotwali, Town and District-Gaya By Occupation Business.
2. Afsan Rahman D/o Late Kalimur Rahman Resident of Mohalla-Dr. Wazir Ali
Road, P.S.-Kotwali, Town and Dist. Gaya at Present resident of L-302 Jai
Puria Society Indra Puran, Ghaziabad (U.P.)
3. Haider Imam
4. Anwar Imam Both Resident of Village-Belhari P.O.-Belhari, P.S.-Belaganj,
District-Gaya at Present Fashion Shoe, Near Agrawal Store, G.B. Road, Gaya,
P.S.-Kotwali, District-Gaya.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Radha Mohan Pandey
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-03-2018 Heard both sides.

The petitioner is aggrieved by order dated 01.12.2017
passed by Sub-Judge-8, Gaya in Title Suit No. 80 of 2017 by
which the petitioner has been debarred from filing the written
statement.

Learned counsel for the petitioner submits that the suit
was fixed for ex parte hearing against the defendant No. 4, but



Defendant No. 4 appeared and ex parte order is recalled on condition of payment of cost of Rs. 1500/-, but immediately, thereafter, vide order dated 01.12.2017, the petitioner was debarred from filing the written statement on one or other flimsy and non existent grounds. The learned Sub-Judge-8 has directed the petitioner to file the written statement vide order dated 27.11.2017. Sufficient opportunities should have been given to the petitioner to file written statement. Learned counsel for the petitioner further submits that the petitioner shall file his written statement within one month from the date of receipt/production of a copy of this order in the court below.

On such, learned counsel for the respondents fairly submits that he has got no objection if the order dated 01.12.2017 debarring the petitioner from filing the written statement, is set aside and the petitioner is directed to file his written statement within stipulated time.

Having considered submissions made by both the parties and on perusal of orders dated 21.11.2017, 27.11.2017 and 01.12.2017, I find that the learned Sub-Judge-8, Gaya has committed jurisdictional error and material irregularity in debarring the petitioner from filing the written statement. The order dated 01.12.2017 passed in Title Suit No. 80 of 2017 is set



aside. The Civil Miscellaneous is allowed with a direction to the petitioner to file written statement within one month from the date of receipt/production of a copy of this order in the court below.

(Prabhat Kumar Jha, J)

ajay gupta/-

U			
---	--	--	--

