

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1674 of 2018**

1. Idris Mian, Son of Nasruddin Mian
2. Babu Jan Mian, Son of Mahammaddin Mian
3. Rajdeo Prasad Yadav, Son of Lathe Nathuni Prasad Yadav
All residents of Village Bakhariya, P.O. Bakhariya, P.S. Majhauria, District
West Champaran.

... .. (Defendants-Respondents)... ..Petitioners
Versus

1. Amardeo Rao, Son of Late Tajman Rao
2. Shubhnarayan Yadav, Son of Late Ramdas Yadav
3. Bhagyanarayan Yadav, Son of Late Ramdas Yadav
All residents of Village Bakhariya, P.O. Bakhariya, P.S. Majhauria, District
West Champaran.

... .. (Plaintiffs-Appellants)... ..Respondents

Appearance :

For the Appellant/s : Mr. Khatim Reza
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

2 27-11-2018 Heard the learned counsel for the petitioners.

The petitioners filed this civil miscellaneous petition against the order dated 05.09.2018, passed by learned Additional District Judge-I, West Champaran, Bettiah in Title Appeal No.20 of 2017 by which the learned Additional District Judge allowed the appellants to bring on record the original sale deed dated 06.01.1983 as evidence under Order XLI Rule 27 of the CPC and marked as exhibit.

Petitioners are the respondents in the title appeal. The learned counsel for the petitioners assailed the order on the grounds that the condition as enumerated in order XLI Rule 27(1) a, b and c have not been fulfilled. The certified copy of



the aforesaid sale deed dated 06.01.1983 is already on record and marked as Ext.2. By allowing the appellants to bring on record the original copy of the aforesaid sale deed amounts to allow the appellants to fulfill the lacuna of the case but I do not find any force in the submissions of the learned counsel for the petitioners. From perusal of the impugned order itself, it appears that the original sale deed dated 06.01.1983 was deposited in the Central Bank of India and instead of producing original sale deed during the hearing of the suit, the certified copy of the aforesaid sale deed was brought on record and marked as Ext.2. Only the original copy is brought on record and marked as exhibit of the aforesaid sale deed by way of additional evidence. The original sale deed was not in possession of the appellants and that is why they could not bring the same on record during the hearing of the suit.

Having considered the facts aforesaid, I do not find any merit in the civil miscellaneous petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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