

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.369 of 2019

Mohan Prasad, Son of Lakhendra Prasad, resident of Ward No.06, Sonar Patti,
Lohar Patti Visati Patti, P.S.-Motihari Town, District-East Champaran, Bihar-
845401.

... .. Defendant 1st set-Petitioner

Versus

1. Md. Sohail Ansari, son of Late Mohammad Said Ansari, resident of
Village-Miskot, P.S.-Motihari Town, District-East Champaran.

... .. Plaintiff-Respondent

2. Hazara Khatoon, wife of Muhammad Mustafa, Daughter of Md. Azim
Ansari, resident of village-Miskot, P.S.-Motihari Town, District-East
Champaran.

... .. Defendant 2nd Set-Respondents

Appearance :

For the Petitioner	:	Mr. Ajay Kumar Singh, Advocate
For the Respondents	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 21-06-2019

This application under Article 227 of the Constitution of India has been filed by the petitioner challenging the order dated 05.11.2018 passed by the learned Munsif, Sadar Motihari in Title Suit No.36 of 2012 whereby he has recalled the order dated 01.11.2018 and restored the suit.

2. By order dated 01.11.2018 the suit was dismissed for non-compliance of the order dated 27.08.2018.

3. Subsequently, on 05.11.2018, the plaintiff appeared before the court and submitted that on 01.11.2018, he had sought for an adjournment, which was allowed. However, the order-sheet reflected that the matter was dismissed for want of compliance of the order dated 27.08.2018.



4. On the basis of the aforesaid submission, a prayer was made to recall the order dated 01.11.2018 and restore the suit to its original file.

5. Having perused the record, the trial court agreed with the submission of the plaintiff. It has recorded that on perusal of the order-sheet the error was apparent, as the plaintiff was appeared on that day. Realizing its own mistake, the court in exercise of its inherent jurisdiction under Section 151 of the Code of Civil Procedure recalled the order dated 01.11.2018 and restored the suit to its original file vide impugned order dated 05.11.2018.

6. In the opinion of this Court, no error can be found with the order impugned whereby the trial court while admitting its mistake in dismissing the suit for non-compliance has rectified the same by recalling its order dated 01.11.2018 and restoring the suit to its original file.

7. Since the order impugned is neither illegal nor perverse, I am not inclined to interfere with the same. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.07.2019
Transmission Date	NA

