

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.520 of 2019**

Sanjeev Kumar Yadav @ Kevli Yadav son of Satya Narain Yadav, Resident of Village- Mauji Harisingh, P.O.- Shitalrampur, P.S.- Bakhari, District- Begusarai.

... .. Defendant 1st Party-Petitioner

Versus

1. Smt. Rekha Devi wife of Sri Shankar Malakar, Resident of Village- Mauji, P.O. & P.S.- Hassanpur, District- Samastipur.
Plaintiff-Respondent 1st Set
2. Ram Ranjan Singh son of Late Hanuman Singh
3. Smt. Reema Devi wife of Prameshwar Rai, daughter of Ram Uday Rai
Both are resident of village- Dunhi, P.S. - Garhpura, District- Begusarai.

... .. Defendant 2nd party-Respondents 2nd party
..... Respondent/s

Appearance :

For the Petitioner : Mr.Ashok Kumar Mishra, Advocate
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 16-08-2019

Heard learned counsel for the petitioner.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 21.01.2019 passed by the learned Munsif, Bakhari, Begusarai in Title Suit No.11 of 2013 whereby the application dated 10.12.2018 filed on behalf of the petitioner to accept the land possession certificate and *Dar Kewala* has been rejected on the ground that on earlier occasion similar petition so filed on behalf of the petitioner was rejected on 20.07.2018.

3. Learned counsel appearing for the petitioner



submitted that the order impugned is erroneous in law as also on facts. By order, dated 20.07.2018, the application of the petitioner was disposed of for the time being and the said documents were not allowed to be accepted on account of contradictory stand taken by both the parties. He submitted that the aforesaid two documents are crucial for adjudication of real dispute between the parties. If the same are not taken into evidence, it would cause great prejudice to the petitioner.

4. Having heard learned counsel for the petitioner and perused the materials on record, I find that respondent 1st party filed Title Suit No.11 of 2013 before the Court of Munsif, Begusarai seeking relief inter alia that on adjudication of the case it be held and declared that *Kewala* dated 06.06.1994 got executed by defendant no.2 in favour of the petitioner is fabricated, fraudulent, inoperative, void, illegal and without consideration as the petitioner did not derive any title and possession over the suit land enumerated in schedule-II of the plaint through alleged sale deed and the respondent no.1 (plaintiff) has got absolute title and possession over the schedule-II land, which is part of schedule-I land.

5. In the said suit, as stated by the petitioner, written statement was filed in the year, 2013 itself.



Subsequently, the petitioner filed an application on 04.09.2017 and prayed to accept the land possession certificate and *Dar Kewala* in evidence and mark them as exhibits. The said application filed on behalf of the petitioner was rejected vide order dated 20.07.2018 by the learned Munsif. Thereafter, another application was filed by the petitioner on 10.12.2018 to accept the land possession certificate and *Dar Kewala* in evidence and mark them as exhibits. The said application was rejected by the trial court vide impugned order dated 21.01.2019.

6. Under Order VIII Rule 1 of the Code of Civil Procedure (for short "CPC"), the defendant is required to file his written statement of defence within thirty days from the date of service of summons on him.

7. The proviso to Order VIII Rule 1 of the CPC provides that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.

8. Thus, the outer limit for filing the written



statement of defence is fixed as ninety days from the date of service of summons.

9. Rule 1-A of the aforesaid Order VIII of the CPC provides that where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set off or counter claim, he shall enter such document in a list, and shall produce it in court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

10. Thus, the aforesaid Rule 1-A of the CPC mandates that the defendant should produce document upon which he relies in defence at the time of filing of the written statement.

11. As noted above, in the instant case, the written statement of the defence was filed in the year 2013 itself. The petitioner, who is defendant in the suit has filed an application for proving certain additional documents after five years from the date of filing of written statement of the defence. The said application was rightly rejected by the trial court. Subsequent application filed by the petitioner has also been rightly rejected by it, as the documents relied upon by the



petitioner could not have been taken into evidence, in view of Order VIII Rule 1-A of the CPC.

12. Accordingly, I see no reason to interfere with the order impugned in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

13. The application is dismissed.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N.A
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