

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1591 of 2019**

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Kashi Nath Singh S/o Late Vakil Singh Resident of Village- Sihauta, P.O.-
Maharajganj, P.S.- Maharajganj, District- Siwan

... .. Appellant/s

Versus

1. Smt. Kailashpati Devi W/o Late Swami Nath Sah Resident of Village-
Sihauta, P.O.- Maharajganj, P.S.- Maharajganj, District- Siwan
2. Sarswati Devi D/o Late Swami Nath Sah Resident of Village- Sihauta, P.O.-
Maharajganj, P.S.- Maharajganj, District- Siwan

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bamdeo Pandey
For the Respondent/s :

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date : 25-11-2019**

Heard learned counsel for the petitioner.

2. The present writ petition has been filed for “*setting aside the order dated 14.06.2019 passed by the Sub Judge-III, Civil Court, Siwan in Title Suit No. 174/2005*”.

3. Learned counsel for the petitioner submits that the learned Court below has arbitrarily and unnecessarily allowed the intervener-respondents to be impleaded in the suit under Order 1 Rule 10(2) of the Code of Civil Procedure. It is submitted that the intervener-respondents have no cause of action nor any interest in the subject matter of the suit and there is a limitation. It is also submitted that the intervener-respondent no. 1 had earlier filed a petition under Order 1 Rule 10(2) of the Code of Civil Procedure on 26.02.2016, which had been dismissed by the learned Court below by order dated 08.08.2017, but on the subsequent petition being filed by her, the impugned order has been passed allowing the petition. It is therefore submitted that once the earlier petition of the intervenor-respondent no. 1 had



been rejected, there was no right to file a further petition for recall of the dismissal order.

4. Having heard learned counsel for the petitioner and on going through the materials on record, this Court is not satisfied that any case for interference has been made out. The petitioner has made vague averments questioning the cause of action and the intervener-respondents interest in the subject matter of the suit as well as on grounds of limitation, but no specific details or submission whatsoever in this regard has been made. The petitioner has also not been able to show any error in the exercise of jurisdiction by the learned Court below in recalling its earlier order of dismissal dated 08.08.2017 rejecting the intervener-respondent no.1's petition dated 26.02.2016 which had been passed in oversight of the documents filed by the intervener on 16.03.2017 and were already on record, rather the learned Court below has sourced such power from Section 151 Code of Civil Procedure.

5. In this view of the matter, this Court is of the view that the impugned order does not suffer from any illegality. The petition stands dismissed.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	NA
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