

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.26 of 2020**

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1. Gayush Marandi, son of Late Saiful Marandi, Resident of village Baretha, P.S. Kasba District Purnea.
2. Ganesh Marandi, son of Late Saiful Marandi, Resident of village Baretha, P.S. Kasba District Purnea.
3. Chhedi Nadaf, son of Late Abdul Nadaf, Resident of village Baretha, P.S. Kasba District Purnea.
4. Bhedi Nadaf, son of Late of Abdul Nadaf, Resident of village Baretha, P.S. Kasba District Purnea.

... .. Petitioners/Defendnts

Versus

1. The State of Bihar
2. The Collector, Purnea.
3. The Circle Officer, Kasba, District Purnea.
4. Javed Jahir, son of Md. Jahiruddin, resident of village Devdha P.S. Kasba, District Purnea.
5. Jagdish Pd. Sah, son of Khoob Lal Shah, resident of village Kasba Madarghat P.O. and P.S. Kasba District Purnea.
6. Laxman Pd. Shah, son of Khoob Lal Shah, resident of village Kasba Madarghat P.O. and P.S. Kasba District Purnea.
7. Santosh Pd. Shah, son of Khoob Lal Shah, resident of village Kasba Madarghat P.O. and P.S. Kasba District Purnea.

...Respondent (1<sup>st</sup> set)

...Respondent (2<sup>nd</sup> set)

...Respondent (3<sup>rd</sup> set)

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**Appearance :**

For the Petitioner/s : Mr.Ram Prawesh Kumar  
For the Respondent/s : Mr.Rishi Raj Sinha (SC-19)

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT**

**25-02-2020**

The present application has been filed for the following reliefs, as formulated by the petitioners/defendants--

*“I. For quashing/setting aside the order dated 23.04.2018 passed by learned Sub-Judge-1 Purnea in T.S.No. 208/2014(CIS No.679/14) whereby and whereunder the prayer of the*



*petitioners to recall the order dated 13.1.17 debarring these petitioners to file written statement has been rejected.*

*II. For a direction to accept written statement filed on their behalf to enable these petitioners to set up his case and to lay their counter claim.”*

2. Learned counsel for the defendants/petitioners submits that the learned court below ought to have recalled its order dated 13.01.2017, by which they had been debarred from filing written statement. It is submitted that the defendants/petitioners had earlier filed a petition for abatement in view of defendant nos. 4 and 6 having died well before filing of the suit. In such circumstances, the order debarring them from filing of the written statement ought to have been recalled.

3. Having heard learned counsel for the defendants/petitioners and on consideration of materials on record, I am not inclined to interfere in the matter.

4. It transpires from the impugned order dated 23.04.2018 that the defendants/petitioners had appeared in the suit on 23.08.2014, but did not file their written statement up-till 13.01.2017 when they were debarred from filing the same. The said written statement was required to be filed within a maximum period of ninety days in terms of Order VIII Rule 1



CPC, whereas the defendants/petitioners filed a petition dated 18.03.2015, i.e. about six months after appearing in the suit on 23.08.2014, mentioning therein that defendant nos. 4 and 6 had died much before the filing of the suit. The learned court below has also taken note that the recall petition of the defendants was not supported with any affidavit nor did it disclose the documents for want of which the written statement could not be filed within time.

5. This Court therefore finds no illegality, infirmity or error of jurisdiction in the order of the learned court below. The petition stands dismissed.

**(Vikash Jain, J)**

HR/-

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