

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.309 of 2018**

---

1. Ram Chandra Sahu son of Late Lakshman Sahu
2. Subain Sahu son of late Ramrup Sahu resident of village - Kachhuwa, Tole Bathnaha, Pargana - Alapur, P.O. - Tamuria, P.S. - Madhepur, District - Madhubani.

... .. Petitioner/s

Versus

1. Sumiran Sahu son of Late Prabhu Sahu @ Parasi Sahu
2. Nasib Lal Sahu son of late Hazari Sahu resident of Village - Kachhuwa, Tole, Bathnaha, Pargana - Alapur, P.O. - Tamuria, P.S. Madhepur, District - Madhubani.
3. Gulab Devi wife of Madan Mohan Sahu resident of Village and P.O. Ekdara, P.S. - Khutauna, District - Madhubani.

... .. Respondent/s

---

**Appearance :**

|                      |   |                                         |
|----------------------|---|-----------------------------------------|
| For the Petitioner/s | : | Mr. Hemendra Prasad Singh, Sr. Advocate |
|                      |   | Mr. Baleshwar Kamat, Advocate           |
| For the Respondent/s | : | Mr. Ashok Kumar Prasad, Advocate.       |

---

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

4      19-09-2022                      Heard Mr. Hemendra Prasad Singh, learned senior counsel for the petitioners and Mr. Ashok Kumar Prasad, learned counsel appearing for the respondents.

Petitioners are defendant in the Title Suit filed by the respondents/plaintiffs for declaration of title and confirmation of possession on the basis of *Hukumnama* granted by the ex-landlord.

Learned counsel for the petitioners submits that a petition was filed in the learned Trial Court for recall of the plaintiff witness No. 9 for cross-examination on certain points



which are necessary for just and effective adjudication of the issues involved in the suit. He further submits that though the petitioner cross-examined the plaintiff witness No. 9 earlier on three dates, but, some points were left out by the defendant and for that purpose the defendant has prayed for recall of the PW-9 for further cross-examination. He next submits that the petitioner will complete the cross-examination in a single day and shall bear the entire expenses including the travelling expenses of the witness.

On the other hand, learned counsel for the plaintiffs/respondents submits that the plaintiff witness No. 9 is approaching 80 years of age and is residing along with his son at Thane, Maharashtra.

I have heard learned counsel for the parties.

The points on which the petitioners want to cross-examine the witness, PW-9, has been mentioned in their petition annexed at Annexure-3. The Court has power under Order XVIII, Rule 17 of the Civil Procedure Code to recall and examine the witnesses.

Taking into consideration the fact that petitioners want to recall the plaintiff witness No. 9 and cross examine him on certain points which has been explained in his petition, and



according to the petitioner, his further cross-examination is necessary for the purpose of some clarifications and for just and effective adjudication of the issues involved in the suit, this application is allowed and the impugned order dated 14.11.2017 passed by learned Munsif, Jhanjharpur, in Title Suit No. 34 of 2010, is set aside.

The Trial Court is directed to recall the witness (PW-9) on an early date convenient to both the parties subject to the cost of Rs.5,000/- to be paid in favour of PW-9 by the petitioner.

**(Anil Kumar Sinha, J)**

S.Ali/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

