

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.140 of 2018**

1. Bimali Devi Wife of Chatardhari Mandal @ Chhtradhari Mandal. null
2. Chatardhari Mandal @ Chhtradhari Mandal, Son of Late Etwari Mandal,
Both are resident of Village- Phatehpur, P.S.- Jhajhr, District- Jamui.

... .. Petitioner/s

Versus

Hemanti Devi Wife of Late Kashi Mandal, Resident of Village- Phatehpur,
P.S.- Jhajha, District- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Mishra, Advocate.
For the Respondent/s : Mr. Satya Prakash Parasar, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 15-11-2022 Heard learned counsel for the parties concerned.

The petitioners are defendants in Title Suit No.70 of 2010 filed by the plaintiff/respondent and is aggrieved by the order dated 20.9.2017 whereby the learned Trial Court has recalled the earlier order dated 20.4.2017 by which the evidence of the plaintiff was closed.

Learned counsel for the petitioners submits that by order dated 20.4.2017, the plaintiff's evidence was closed and without consideration of the facts upon petition filed by the plaintiff and without any argument upon the recall petition, the learned Trial Court has recalled the earlier order by which the plaintiff's witness was closed .

On the other hand, learned counsel for the



plaintiff/respondent submits that from perusal of the order dated 20.9.2017 it would transpire that the learned Trial Court while recalling the previous order of closure of evidence of the plaintiff has recorded by mistake in the order that plaintiff's witness has been closed which has been corrected by the impugned order dated 20.9.2017 and the plaintiff has been directed to produce his evidence.

Learned counsel next submits that majority of the plaintiff's witnesses have been examined and the respondent/plaintiff shall complete the plaintiff's witnesses within a period of three months. The suit is for declaration of title and confirmation of possession of the plaintiff over the suit land as well as for cancellation of sale deed dated 13.7.2019. The suit was filed in the year 2010.

In view of the undertaking given by the plaintiff that examination of his witnesses shall be completed within three months, I am of the opinion that no interference in the impugned order is required.

Accordingly, this application stands dismissed.

However, if the respondent/plaintiff does not examine her witnesses within the aforesaid period of three months, the evidence of the plaintiff shall be closed by the learned Trial



Court.

It is made clear that no unnecessary adjournment shall
be granted to either of the parties by the learned court below.

(Anil Kumar Sinha, J)

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