

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1312 of 2018**

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Mazahar Haidar son of Late Nazmuddin resident of Village - Nezampur, Post Office - Aira, Police Station - Kurtha, District - Arwal Bihar.... .. Petitioner/s
Versus

1. Neyza Ahmad and Anr son of Late Md. Fakhruddin resident of Village - Shahwajpur, Post Office - Ratni Bazar, Police Station - Shakurabad, District - Jehanabad.
 2. Kunti Devi wife of Sahesh resident of Village - Nirpur, Post Office - Shakurabad, Police Station - Shakurabad, District - Jehanabad.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Shamimul Hoda, Advocate
For the Respondent/s : Mr. Ashok Nandan Prasad,
Mr. Ajay Kumar Sinha, Advocates

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 18-10-2022 Heard the parties.

2. The petitioner is a plaintiff in the suit filed for declaration of the sale deed as void *ab initio* and further for declaration that the plaintiff has right, title interest upon the suit property described in Scheduled-1 of the plaint.

3. Learned counsel for the petitioner submits that the averment made in the plaint has not been denied by the respondent in their written statement. Accordingly, the petitioner filed a petition under Order 12 Rule 6 of the CPC seeking judgment on admission but by the impugned order the same has been rejected erroneously.

4. On the other hand, learned counsel appearing for Respondent No. 2 submits that the petition under Order 12 Rule 6 of the CPC filed by the petitioner is not entertainable inasmuch as there is no admission on part of the defendant to the pleadings brought by the petitioner/plaintiff either orally or



in writing at any stage of the suit. He next submits that in fact the part of the suit land was sold by the *Khatiyani Raiyat* by virtue of sale deed in the year 1960, 1961 and the defendant no. 2 purchased two *Katthas* of the suit land from the son of original purchaser of 1961 who was made party as defendant No.1/Respondent No. 1.

5. He next submits that in fact the learned trial court has directed the petitioner/plaintiff to produce evidence in the suit but instead of producing the evidence the petitioner has filed a petition seeking judgment on admission in order to delay the disposal of the suit.

6. Learned counsel for the petitioner submits that he will produce the evidence on behalf of the petitioner/plaintiff after Puja Holiday.

7. In view of the submissions made by the parties and taking into consideration the fact that the petitioner will produce his evidence after Puja Holiday, I am not inclined to interfere with the impugned order. Accordingly, this application is dismissed.

(Anil Kumar Sinha, J)

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