

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.107 of 2022

1. Most. Prabhawati Devi @ Most. Prabhawati Singh Wife of Late Ramchandra Singh, Resident of Village - Arara, P.S. - Adapur, District - East Champaran.
2. Kamlesh Singh, Son of Late Ramchandra Singh, Resident of Village - Arara, P.S. - Adapur, District - East Champaran.
3. Akhilesh Singh, Son of Late Ramchandra Singh, Resident of Village - Arara, P.S. - Adapur, District - East Champaran.
4. Sabita Devi @ Sabita Singh, Wife of Sanjay Singh, Resident of Village - Persauna Sapti, P.S. - Palanwa, District - East Champaran.
5. Rubbi Singh @ Rubbi Devi, Wife of Pramod Govind Raw, Resident of Village and P.S. - Ramkola, District - Kushi Nagar, Uttar Pradesh.
6. Rupa Singh, Wife of Uday Govind Raw, Resident of Village - Dhanauji Khas, P.S. - Ramkola, District - Kushi Nagar, Uttar Pradesh at present resident of Village - Arara P.S. Adapur, District - East Champaran.

... .. Petitioner/s

Versus

1. Binod Shankar Dubey Son of Late Chandradeo Prasad Dubey, Resident of Village - Bhaluahiya, P.O. and P.S. - Adapur, District - East Champaran.
2. Parmod Kumar Dubey, Son of Late Chandradeo Prasad Dubey, Resident of Village - Bhaluahiya, P.O. and P.S. - Ada Pur, District - East Champaran.
3. Vijay Kumar Dubey, Son of Late Chandradeo Prasad Dubey, Resident of Village - Bhaluahiya, P.O. and P.S. - Ada Pur, District - East Champaran.
4. Smt. Bibhuti Mishra, Wife of Deepak Mishra, Resident of Village and P.O. and P.S. - Nawhatta, District - Sharsha.
5. Smt. Shashi Mal, Wife of Arun Mal, Resident of Village - Sugauli, P.O. - Dhobini, P.S. - Lawriya, District - West Champaran.
6. Punam Rai, Wife of Late Santosh Rai, Resident of Village and P.O. - Barwa, P.S. - Lawriya, District - West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava
For the Respondent/s : Mr. Anand Vardhan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 21-06-2022 The petitioner is aggrieved by the order dated
21.01.2022 passed in Title Appeal No. 54 of 2013 by which the



learned lower appellate court has allowed the petition filed by the appellant under Order 41 Rule 27 and Section 151 of the C.P.C. for additional evidence.

Learned counsel for the petitioner submits that petitioners are the defendants -respondents in the Title Appeal.

Mr. Vijay Shankar Srivastava, learned counsel appearing for the petitioners submits that the learned court below while allowing the application for additional evidence filed by the plaintiffs / appellants did not consider the scope and ambit of Order 41 Rule 27 of the C.P.C. and the only ground which the plaintiffs-appellants took before the appellate court in the petition filed for additional evidence is that due to oversight of the lawyer and his fault this document could not be brought on record in the suit. He further submits that by the impugned order learned court below has virtually re-opened the suit.

On the other hand, Mr. Anand Bardhan, learned counsel for the plaintiff-respondent submits that the learned court below while allowing the application for additional evidence has considered every aspect of the matter and has given sufficient reason in a detailed manner. He further submits that it is admitted position that due to fault of the lawyer the relevant piece of evidence could not be brought on record and it



is settled principle of law that for lawyer's fault client should not suffer. The court below has allowed the application filed under Order 41 Rule 27 of the C.P.C. for additional evidence in the interest of justice and taking into consideration substantial cause.

Having heard learned counsel for the parties and after going through the impugned order, I am satisfied that sufficient reason has been given by the court below while allowing the prayer of additional evidence filed by the plaintiff- respondent accordingly I do not find any infirmity in the impugned order.

As such, this civil miscellaneous application is dismissed.

(Anil Kumar Sinha, J)

praful/-

U			
---	--	--	--

