

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.438 of 2022

1. Kanhaiya Sah @ Kanhaiya Prasad Sah S/o Late Birani Sah Resident of Vishnupur, P.O. - Mirzapur Bandwar, P.S. - Mufasil, District - Begusarai, present Address - Amit Hotel, Kachehri Road, Ward No. 23, Begusarai, P.S. and District - Begusarai.
2. Renuka Sah W/o Kanhaiya Sah Resident of Vishnupur, P.O. - Mirzapur Bandwar, P.S. - Mufasil, District - Begusarai, present Address - Amit Hotel, Kachehri Road, Ward No. 23, Begusarai, P.S. and District - Begusarai.

... .. Petitioner/s

Versus

Prof. Madneshwar Nath Dutta @ Lakshman Singh S/o Late Kameshwar Nath Dutta @ Kameshwar Singh, R/o G.P - 3, Ward No. 4, Barauni, P.S.- Barauni, District - Begusarai, presently residing in Pardarshan Kachehri Road, Ward No. 23, Begusarai, P.S. - Begusarai Town, District - Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Sinha Mr.Chetan Kumar
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 03-11-2022 Heard learned Counsel for the petitioners.

The petitioner is aggrieved by the orders, dated 08.04.2022 and 04.07.2015, passed in Title Eviction Suit No. 18 of 2011, by which the recall of the order, passed on 04.07.2015 has been rejected by the learned Court below.

The petitioners-defendants are the tenants in the eviction suit filed by the respondent-plaintiff. PWs 1 and 3 were examined in the suit in the year 2015 and they were also discharged and on 17.03.2015, the petitioners filed a petition to recall the witnesses for the purpose of cross-examination, but



the same was rejected by the learned Trial Court, vide order, dated 04.07.2015. After a lapse of about six-seven years from the date of rejection of the petition filed by the petitioners for recall of PWs 1 and 3, the petitioners filed a petition on 23.02.2021 for recall of the order, dated 04.07.2015.

Learned Counsel for the petitioners submits that in the eviction suit, the question of title is involved and issues in this regard has been framed by the learned Trial Court.

I have heard learned Counsel for the petitioners and have perused the impugned orders.

From perusal of the impugned orders, it appears that the learned Trial Court has rejected the prayer for recall of the previous order sought by the petitioners on the ground that in an eviction suit, the petitioners are trying to linger the disposal of the suit.

This Court is satisfied that the petition for recall has been filed in abuse of the process of the Court inasmuch as the order, dated 04.07.2015, was passed about six-seven years back, but the same was not challenged by the petitioners and at the fag end of the suit, after closure of the examination of the prosecution witnesses and at the stage of examination of defendants' witnesses, petitioners have filed the recall petition.



In view of the above, I do not find any infirmity in the
impugned orders.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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