

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.224 of 2018**

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Jay Narayan Yadav son of Late Gajadhar Yadav, Resident of Village-
Kachhra, P.O. Bankatta, P.S. Benipatti, District- Madhubani.

... .. Petitioner/s

Versus

1. Ram Ashish Yadav son of Late Mahadeo Yadav, Resident of Village-
Kachhra, P.O. Bankatta, P.S. Benipatti, District- Madhubani.
- 2.1. Shakhiya Devi Wife of Late Ramu Kamti, Resident of village - Kachhra,
P.O. Bankatta, P.S. Banipatti, District - Madhubani.
- 2.2. Sita Saran Kanti Son of Late Ramu Kamti Resident of village - Kachhra,
P.O. Bankatta, P.S. Banipatti, District - Madhubani.
- 2.3. Bijay Kanti Son of Late Ramu Kamti Resident of village - Kachhra, P.O.
Bankatta, P.S. Banipatti, District - Madhubani.
- 2.4. Amirati Devi Wife of Kamdeo Choudhary and daughter of Late Ramu
Kamti, Resident of village - Tyoth, P.O. Tyoth, P.S. Benipatti, District -
Madhubani.
- 2.5. Anita Devi Wife of Manoj Kumar Manti and daughter of Late Ramu Kamti,
village - Kefuli, P.O. - Akaur, P.S. Benipatti, District - Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ramesh Kumar Choudhary, Advocate
For the Respondent/s	:	Mr. Ravi Prakash, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
CAV JUDGMENT**

Date : 18-04-2023

Heard learned counsel for the parties.

2. This Civil Miscellaneous Application, under Article 227 of the Constitution of India, has been filed against the order dated 18.12.2017 passed by learned Munsif, Benipatti in Title Suit No. 01/2000 whereby and whereunder petition dated 28.08.2017 filed by the petitioner for taking some documents in evidence, has been rejected.

3. The brief facts of the case are that the petitioner,



who is the plaintiff in the trial Court, has filed the Title Suit No. 01 / 2000 against the defendants / respondents for declaration of his right, title and interest over the suit land alongwith other reliefs. The defendants appeared in the suit, filed written statement and contested the suit. The evidence of the parties started. During the cross examination of defendant No. 1 (DW4) the plaintiff / petitioner on 02.03.2017 filed some of the documents after showing the same to DW4 and thereafter on 28.08.2017 petitioner filed an application praying therein to take the documents mentioned in the petition in evidence as the said documents have got relevancy for disposal of the suit which was objected by the defendant / respondent stating that the petition is not maintainable and the same has been filed for the purpose of delaying the disposal of the suit and to harass the defendant. The said petition has been dismissed by the learned trial Court vide the impugned order dated 18.12.2017.

4. Learned counsel for the petitioner has submitted that the impugned order is not proper and valid as the learned Court below failed to consider that if the documents in question are taken into evidence, no prejudice shall be caused to the defendants / respondents. He has further submitted that the said documents are relevant for deciding the issue in controversy and



as such learned trial Court ought to have taken the same in evidence for proper consideration. Further, it has been submitted that the petitioner will suffer irreparable loss and injury if the documents in question are not taken on record. He has next submitted that the petitioner will not produce any further documents or evidence and cooperate in early disposal of the case.

5. On the other hand learned counsel for the respondents has submitted that the documents filed by the plaintiff during the cross -examination of DW-4, neither shown to DW-4 nor are relevant in the instant suit and the petition had been filed for the purpose of delay in the disposal of the suit and to harass the defendant as the suit is pending at the stage of argument and the suit is of the year 2000. The document No. 1 is related to show cause filed in 145 Cr.P.C. proceeding whereas documents No. 2 to 4 are related to criminal case G.R. No. 1038 / 99 which are not relevant in this suit. He has further submitted that in view of the fact that it is an old case, the trial Court may be directed to expedite the disposal of the suit.

6. Order 13 Rule 1 CPC requires the parties or their counsel to produce all the documentary evidence in their possession or power alongwith pleadings or before settlement of



the issue.

Where the document relied upon is intended to be put to a witness in the course of cross-examination for the purpose of testing the veracity of the witness, it is not necessary that such a document should be disclosed / produced at the stage of production of documents or that leave of Court should be obtained for so producing the documents to the witnesses in the course of cross-examination.

7. The Hon'ble Supreme Court in the case of **Billa Jagan Mohan Reddy Vs. Billa Sanjeeva Reddy (1994) 4 Supreme Court Cases 659** observed :-

“It is settled law that, if the documents are found to be relevant to decide the real issue in the controversy, and when the Court felt that the interest of justice requires, that the documents may be received, exercising the power under Order 41 Rule 27 CPC the appellate Court would receive the documents and consider their effect thereof. When such is the situation, when the documents are sought to be produced in the trial Court, before the arguments are completed normally they may be received; an opportunity given to prove them and rebuttal if any and their relevance and effect they may have be considered in deciding the issues arising in the controversy.”

8. In the case of **Rukaiya Bibi Ahmad Ali Ismail**



Vs. Musa Ismail Mahmed Khusal, (2014) 16 SCC 422 the Hon'ble Supreme Court has held that "when the authenticity of the documents is not questioned by the other side, the same can be admitted in evidence although the case has been fixed for argument."

9. The Hon'ble Supreme Court in the case of **Bachhaj Nahar Vs. Nilima Mandal & Ors. AIR 2009 SC 1103** observed that "Civil Procedure Code is an elaborate codification of the principles of natural justice to be applied to civil litigation. The provisions are so elaborate that many a time, fulfillment of the procedural requirement of the code may itself contribute to delay. But any anxiety to cut the delay or further litigation, should not be a ground to float the settled fundamental rules of Civil Procedure."

10. The procedural laws are handmaid of justice, they are intended to facilitate and not to obstruct the course of substantive justice. The object of prescribing procedure is to advance the cause of justice and not to shut the doors of justice for the parties at the very threshold.

11. The Hon'ble Supreme Court in the case of **K.K. Velusamy Vs. N. Palanisamy (2011) 11 SCC 275** has held that 'the Courts have the jurisdiction to reopen the case of any party



and allow a party to adduce further evidence for the ends of justice even after the case has been fixed for argument. Since there is no provision for permitting the document for taking it in evidence at the stage of argument, the Court can exercise inherent jurisdiction under Section 151 CPC’.

12. Having heard learned Counsel for the petitioner and on perusal of material on record and the impugned order, it appears that learned trial Court observed that no document was produced by the plaintiff during the cross-examination of witness on behalf of defendant and the stage of evidence has been closed. It appears that the said documents are not related to the suit and the suit is very old. Accordingly at this stage of suit it is not in the interest of justice to accept the documents produced by plaintiff as evidence. Considering the oldness of the suit and the non-relevancy of documents in suit, the trial Court rejected the said petition of the plaintiff.

13. In the present case, the plaintiff is praying for admitting the document in evidence to show that there was a criminal case between the parties due to dispute relating to suit land and a proceeding under Sections 144 – 145 Cr.P.C. had also been initiated involving the suit property and to contradict the evidence of DW-4 in this regard. The documents are certified



copy and its authenticity is not in question.

14. In the result, the Miscellaneous Application is allowed. The impugned order dated 18.12.2017 passed by Munsif, Benipatti in Title Suit No. 01 / 2000 is set aside. The petition dated 28.08.2017 of the petitioner for admitting the documents is hereby allowed.

15. Since the suit is of year 2000, both the parties are directed to cooperate the trial Court for early disposal of the suit and the learned trial Court shall take all possible steps for expeditious disposal of the suit.

(Sunil Dutta Mishra, J)

saaurabhkr/-

AFR/NAFR	AFR
CAV DATE	09.02.2023
Uploading Date	18.04.2023
Transmission Date	

