

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.398 of 2022

Shiv Kumar, Gender Male, aged about 56 years, Son of Late Ganesh Prasad Singh Resident of Mohalla 76 M.I.G. Hanuman Nagar, Kankarbagh, P.O. Lohiya Nagar, P.S.- Patrakar Nagar, District- Patna, Pin Code- 800020, Director M/s Agrani Infra Developer Pvt. Ltd. Registered Office 19 IAS Colony, P.O.- G.P.O., P.S.- Budha Colony, District- Patna, Pin Code- 800001, Adhar Card No 5789 3310 6274.

... .. Petitioner/s

Versus

Sunaina Devi, Gender Female, aged about 47 years, wife of Yogindra Prasad resident of Mohalla Bari Badalpura, P.O. and P.S.- Khagaul, District- Patna, Pin Code- 801105

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. R. K. P. Singh, Advocate Mr. Bal Bhushan Choudhary, Advocate
For the Respondent/s	:	Mr. Mukul Prasad, Advocate Mr. K. N. Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

3 04-04-2023 Heard learned counsel for the parties.

This Civil Miscellaneous Application has been directed against the order dated 29.04.2022 passed by the learned Sub Judge 1, Danapur in Title Suit No. 52 of 2020 whereby and whereunder the application of defendant dated 22.11.2022 and 25.03.2022 have been rejected.

Learned counsel for the petitioner submits that notice of service has not been properly served to the petitioner



and the court has not appreciated that under Order 9 Rule 7 CPC, limitation period is not prescribed. The court has also not appreciated that the paper publication was also not done in accordance with law and if the petitioner be not permitted to contest the suit by filing written statement, cross-examine the witnesses examined on behalf of plaintiff, and to bring evidences on his behalf irreparable loss would be cause to the defendant / petitioner accordingly he prayed to set aside the impugned order. Learned counsel for the petitioner submits that he will file the written statement within four weeks and he will cooperate in early disposal of the suit.

Learned counsel for the respondent submits that without going into the merit of this application, in the interest of justice the petitioner may be given fixed time for filing the written statement and petitioner may be directed to cooperate to the court concerned for early disposal of the suit.

In view of the submissions of the learned counsel for both the parties and with their consent without going into the merit of the case, in the interest of justice, this Civil Miscellaneous Application is disposed of with the permission to the petitioner to file the written statement within four weeks subject to payment of Rs. 3,000/- as cost to the plaintiff in the



learned court below. The impugned order dated 29.04.2022 is set aside.

Both the parties are directed to cooperate the court concerned for expeditious disposal of the suit.

It is needless to say that the defendant shall have the right to cross examine the witnesses of the plaintiff and to adduce his evidence, if any, after filing the written statement in accordance with law.

(Sunil Dutta Mishra, J)

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