

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.645 of 2023

1. Sita Ram Yadav Son of Late Ram Lobhit Yadav,
2. Subodh Yadav, Son of Late Ram Lobhit Yadav,
3. Kusheshwar Yadav, Son of Ram Lakhan Yadav, Resident of village - Deohar Tola Bhikhna, P.O. - Satghara, P.S. Andhratharhi District Madhubani.
4. Ramprit Yadav @ Ram Pait Yadav, Son of Ram Lakhan Yadav, Resident of village - Deohar Tola Bhikhna, P.O. - Satghara, P.S. Andhratharhi District Madhubani.
5. Ram Nath Yadav, Son of Ram Lakhan Yadav, Resident of village - Deohar Tola Bhikhna, P.O. - Satghara, P.S. Andhratharhi District Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Revenue and Land Reforms Department govt. of Bihar Patna.
2. The Secretary Department of Law Bihar, Patna.
3. The Registrar District Court, Madhubani.
4. Sri Bechan Yadav, Son of Late Bhut Yadav, Resident of village - Bithauni, P.S. Andhrathadhi, District - Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ravi Prakash Mr. Gagan Deo Yadav
For the Respondent/s	:	Mr.Sajid Salim Khan (Sc 25)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 21-09-2023 Heard the parties.

2. The present application for additional evidence was filed in Title Appeal No. 22 of 2018 arising out of Title Suit No. 53 of 2012.

3. Learned counsel for the petitioners submits that he wants to exhibit land receipts of the year 1983-86 as the same could not be exhibited due to mistake.



4. Learned counsel for the Respondent has submitted that the additional evidence which the petitioners want to file at this stage claiming that due to mistake the same could not be filed earlier cannot be allowed in view of the provisions of Order 41 Rule 27 of the Code of Civil Procedure.

5. The Order 41 Rule 27 reads as follows:

“27. Production of additional evidence in Appellate Court. (1)
The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if-

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

[(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or]

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,

the Appellate Court may allow such evidence or document to be produced, or witness to be examined.”

6. The petitioners have not been able to establish that notwithstanding the exercise of due diligence, the receipts were not produced by him during the proceedings of the Title Suit and the Appellate Court does not require the document pursuant



to the judgment for any substantial cause.

7. In my opinion, the impugned order passed by the Court below cannot be interfered with.

8. In view of the above, this application is, dismissed.

9. The Appellate Court is directed to dispose of the appeal within six months from the date of receipt/production of a copy of this order.

(Sandeep Kumar, J)

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