

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.1156 of 2018**

Smt. Malti Devi, wife of Bishundev Singh, resident of Village- Budhar Tola,  
P.S- Maner, District- Patna.

... .. Petitioner/s

Versus

- 1.1. Radhika Devi, wife of Late Abhay Kumar Singh, resident of Village-  
Beyapur, Jiwarakhan Tola, P.S- Maner, District-Patna.
- 1.2. Rajeev Ranjan Kumar @ Ravi Kumar, son of Late Abhay Kumar Singh  
Resident of Village- Beyapur, Jiwarakhan Tola, P.S- Maner, District-Patna.
- 1.3. Rahul Kumar @ Tuntun Kumar, son of Late Abhay Kumar Singh, resident  
of Village- Beyapur, Jiwarakhan Tola, P.S- Maner, District-Patna.
- 1.4. Rajeev Kumar Singh @ Raju, son of Late Abhay Kumar Singh, resident of  
Village- Beyapur, Jiwarakhan Tola, P.S- Maner, District-Patna.
- 1.5. Punam Kumari, daughter of Late Abhay Kumar Singh Resident of Village-  
Beyapur, Jiwarakhan Tola, P.S- Maner, District-Patna.
- 1.6. Renu Kumari Singh, daughter of Late Abhay Kumar Singh, resident of  
Village- Beyapur, Jiwarakhan Tola, P.S- Maner, District-Patna.
2. Binay Kumar Singh, son of Late Laxmi Narayan, resident of Village-  
Beyapur, Jiwarakhan Tola, P.S- Maner, District-Patna.
3. Most. Duli Devi, wife of Late Vijay Kumar, resident of Village-Beyapur,  
Jiwarakhan Tola, P.S- Maner, District-Patna.
4. Ajay, son of Late Vijay Kumar, resident of Village-Beyapur, Jiwarakhan  
Tola, P.S- Maner, District-Patna.
5. Sanjay, son of Late Vijay Kumar Singh Under the Guardianship of their  
Mother Most. Duli Devi, all residents of Village-Beyapur, Jiwarakhan Tola,  
P.S- Maner, District-Patna.
6. Vinay, son of Late Vijay Kumar Singh Under the Guardianship of their  
Mother Most. Duli Devi, all Residents of Village-Beyapur, Jiwarakhan Tola,  
P.S- Maner, District-Patna.
7. Tinay, minor sons of Late Vijay Kumar Singh under the guardianship of  
their mother most. Duli Devi, Under the Guardianship of their Mother Most.  
Duli Devi, all Residents of Village-Beyapur, Jiwarakhan Tola, P.S- Maner,  
District-Patna.
8. Mirtunjay Kumar, son of Late Laxmi Narayan Singh, resident of Village-  
Beyapur, Jiwarakhan Tola, P.S.- Maner, District- Patna.

... .. Respondent/s

**Appearance :**

For the Petitioner/s

Mr. Sudhanshu Shekhar, Advocate

Mr. Ajay Kumar Singh, Advocate

For the Respondent/s

:

Mr. Rajesh Ranjan No.1, Advocate



**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA**  
**ORAL ORDER**

9      14-02-2023                      Heard learned counsel for the petitioner.

2. No one appears on behalf of the respondents.

3.This application has been filed against the order dated 30.05.2018 passed by learned Sub-Judge-IIIrd, Danapur in Title Suit No. 120/2000, whereby the petition dated 22.02.2018 filed by the petitioner/defendant no.2 praying to accept the documents on record has been rejected.

4. It is stated in the petition that the suit was filed by the plaintiffs/respondents no. 1 to 7 for declaration of the two registered sale deeds dated 04.07.2000 executed by defendant no.1 in favour of defendant no.2 are null and void and on that basis the defendants have not acquired any title, right and interest thereon. Further, it is stated that plaintiffs have closed their evidence and evidence of petition is to commence. The petitioner filed the petition dated 22.02.2018 for accepting the documents on record explaining the delay that petitioner is an old and sick lady and due to bona fide mistake the documents could not be filed earlier.

5. Learned counsel for the petitioner submits that the produced documents are public documents in the form of the certified copy of of the earlier registered sale deeds and order



passed in quasi judicial proceeding which have got relevancy in deciding the issue involved. However, the learned Court below rejected the said petition on the grounds of delay in filing the said documents at belated stage without reasonable explanation.

6. Learned counsel for the petitioner submits that the case is running for defendant's evidence and the documents are necessary documents which are required to be exhibited for proper disposal of the case and no prejudice would be caused to the respondents and the same may be allowed with appropriate cost, if any.

7. Learned counsel for the petitioner further submits that it is well settled that Rules of Procedure are handmaid of the justice and on the ground of delay, to deprive the petitioner not to file documents will lead to denial of justice.

8. He has referred the recent judgment dated 17.05.2022 of the Hon'ble Supreme Court in **Civil Appeal No. 4096 of 2022 (Levaku Pedda Reddamma & Ors. Vs. Gottumukkala Venkata Subbamma & Anr.)** in which it is observed:-

*“It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial court should have imposed some costs rather than to decline the production of the documents itself”.*

Order 8 Rule 1A(3) of the C.P.C. provides that the



documents, which have not been produced alongwith the written statement, cannot be produced to the Court later on without the leave of the Court. Thus, if a document is to be produced by a defendant, the same is to be produced with the written statement, subsequent production of document can be done only if the Court is satisfied with the grounds explained for non-production of the documents at the time of filing written statement.

9. The Hon'ble Supreme Court in judgment dated 13.10.2020 in **Sugandhi (dead) by Lrs & Anr. Vs P. Rajkumar (Civil Appeal No.3427 of 2020)** considering Rule 1A of Order 8 of C.P.C. which provides procedure for production of documents by the defendant observed in Paragraph 9 that:

*“9. It is often said that procedure is the handmaid of justice. Procedural and Technical hurdles shall not be allowed to come in the way of the Court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, Court must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the Court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the Court should take a lenient view when an application is made for production of the documents under Sub-Rule (3)”.*

10. In the present case, the petitioner/defendant no.2 has filed an application assigning cogent reasons for delay in



producing the documents. It cannot be disputed that these documents are necessary for arriving at a just decision in the suit. I am of the view that the Court below ought to have granted leave to produce these documents.

11. Considering the aforesaid facts and circumstances and the law as discussed above, this application is allowed, subject to cost of Rs.3,000/- to be paid to the plaintiffs in the Trial Court. The impugned order dated 30.05.2018 passed by the Trial Court is set aside. The petitioner/defendant no.2 is permitted to file the documents and prove the same in accordance with law. The plaintiffs are also permitted to lead additional evidence, if any, on the basis of the said documents now produced by the petitioner/defendant no.2.

**(Sunil Dutta Mishra, J)**

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