

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.776 of 2022

Uday Singh @ Uday Pratap Singh, Son of Vijay Pratap Singh, Resident of Village - Raipatti Dighwara, P.O. and P.S.- Dighwara, District- Saran.

... .. Petitioner/s

Versus

1. Jai Prakash Gupta, Son of Late Panna Lal Gupta, Resident of Village - Raipatti Dighwara, P.O. and P.S.- Dighwara, District- Saran.
2. Smt. Sushma Devi, Wife of Jai Prakash Gupta, Resident of Village - Raipatti Dighwara, P.O. and P.S.- Dighwara, District- Saran.
3. Roshan Singh, Son of Vijay Pratap Singh, Resident of Village - Raipatti Dighwara, P.O. and P.S.- Dighwara, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate with Mr. Shivam, Advocate
For the Respondent/s	:	Mr. Suresh Prasad Singh No.1, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

3 02-02-2023 Heard Mr. P.N. Shahi, learned Senior counsel for the petitioner with Mr. Shivam, Advocate appearing for petitioner and Mr. Suresh Prasad Singh No. 1, learned counsel for the respondents 1st set/plaintiffs.

This Civil Miscellaneous Application has been filed against the order dated 03.08.2022 passed by learned Munsif, Sonapur, District- Saran in T. S. No. 64 of 2012 whereby and whereunder he has rejected the petition for recall of order dated 07.04.2021 by which the evidence of defendant/petitioner has been closed.

The brief facts of the case are that the plaintiffs/



respondents 1st set filed title suit no. 64/2012 for declaration of title and restoration of possession of suit property. The petitioner appeared and filed written statement in the suit. The plaintiffs examined their witnesses and one witness was examined on behalf of the defendants. The evidence of defendants were closed but the same was recalled on cost and lastly vide order dated 07.04.2001 the evidence of the defendant was closed and the trial court rejected the recall petition. Hence, this application has been filed by the petitioner.

Learned senior counsel appearing for the petitioner submits that the trial court failed to appreciate that there was adequate reasons for recall of the order closing the evidence of the defendant in as much as the entire country was under the grip of Corona pandemic. He has further submitted that the petitioner had not done any willful latches but it was due to the said Corona pandemic prevailing at that time and it is in the interest of justice that one opportunity may be provided to the petitioner to produce his evidence including himself within a time frame.

Learned counsel appearing for the respondents/plaintiffs submits that despite given sufficient opportunities the petitioner failed to produce his witnesses and



causing delay in disposal of the suit and appropriate cost may be imposed on petitioner if he may be permitted to adduce witnesses on his behalf.

The procedural laws are handmaid of justice; they are intended to facilitate and not 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. Meaning of 'ends of justice' essentially refers to justice for all the parties involved in the litigation. Every trial is a voyage of discovery in which truth is quest. Truth alone has to be foundation of justice.

Having heard the learned counsel for the parties and considering the facts and circumstances of the case and the impact of Covid-19 pandemic, it is in the interest of justice to provide one more opportunity to defendant no. 1 to produce his evidence, if any, in the suit.

Accordingly, the orders dated 03.08.2022 and 07.04.2021 passed by learned Munsif, Sonapur, District- Saran in T. S. No. 64 of 2012, are set aside with the conditions that the petitioner shall make payment of Rs. 4,000/- to the plaintiff in the learned court below. Accordingly, this case is disposed of with direction to the learned court below for early disposal of



the case and both the parties shall cooperate in this regard.

(Sunil Dutta Mishra, J)

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