

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.942 of 2017

1. Smt. Saroj Devi and Anr wife of Hridya Nand Pandey,
2. Hridya Nand Pandey, son of Late Ram Pravesh Pandey, Both are resident of Village P.O.- Patedha, P.S.- Maharajganj, District- Siwan.

... .. Petitioner/s

Versus

1. Rajesh Pandey and Ors son of Ramanand Pandey, resident of Village- Paterha, P.S.- Maharajganj, District- Siwan.
2. Rakesh Pandey, son of Ramanand Pandey,
3. Most Sumitra Kunwar, wife of Late Ramanand Pandey, Both are resident of Village- Paterha, P.S.- Maharajganj, District- Siwan.
4. Smt. Usha Devi, wife of Akhilesh Mishra, presently reside at Village- Bansohi, P.S.- Basantpur, District- Siwan.
5. Smt. Renu Devi, wife of Shiv Kumar Upadhyay, presently reside at Village- Sonbarsa, P.S.- Basantpur, District- Siwan.
6. Most. Chandrama Kunwar, wife of Late Sachitanand Pandey, resident of Village- Paterha, P.S.- Maharajganj, District- Siwan.
7. Smt. Punam Devi, Daughter of Late Sachitanand Pandey, wife of Vinod Mishra, resident of Village- Dhanaw, P.S.- Baniyapur, District- Chapra.
8. Smt. Kanti Devi, wife of Rameshwar Pandey, resident of Village- Baliya, P.S.- Maharajganj, District- Siwan.
9. Vishwanand Pandey, son of Late Rampravesh Pandey, resident of Village- Paterha, P.S.- Maharajganj, District- Siwan.
10. Smt. Saraswati Devi, wife of Shree Vishwa Nand Pandey, resident of Village- Paterha, P.S.- Maharajganj, District- Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 09-01-2024

Heard learned counsel for the petitioners and I intend
to dispose of this petition at the stage of admission itself.

02. The petitioners have filed the present petition for
quashing the order dated 19.04.2017 passed by the learned Sub.



Judge-III, Siwan in Title Suit No. 739 of 2009, by which the petition dated 25.05.2016 filed on behalf of defendant-1st set for recalling the plaintiffs' witness nos. 6 & 9 for cross-examination has been rejected.

03. Learned counsel for the petitioners submits that the petitioner do not stay at the place of litigation and *pairavi* in the case was entrusted to other persons and for this reason plaintiffs' witness nos. 6 and 9 could not be cross-examined. The learned trial court did not consider the fact regarding petitioner no. 1 is living outside and petitioner no. 2 being in Government Service and the rejection of prayer of the petitioners for recall of the witnesses would cause irreparable loss to the petitioners. Hence, the order dated 19.04.2017 may be set aside and the petitioners be allowed to cross-examine the plaintiffs' witness nos. 6 and 9.

04. Perused the record.

05. Perusal of impugned order makes it amply clear that on 01.02.2016, the petition filed for recall of plaintiffs' witness nos. 6 & 9 was rejected by the learned trial court. The said order was not challenged before any Superior Court and it attained finality. The petitioner again moved before the learned trial court with same prayer. The impugned order also reflects,



prior to that, other witnesses were also recalled. It has also come in the impugned order that recall petition was filed after much delay.

06. Considering all these facts and circumstances, particularly, the fact that the earlier order rejecting recall of the same witnesses was not challenged and continuous filing of petitions for recalling the same witnesses seems to be a ploy for lingering the matter, I do not find any merit in the present petition and hence, the same is dismissed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.01.2024
Transmission Date	N/A

