

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1083 of 2017

1. Urmila Devi, Wife of Late Jitender Singh, Resident of Village-Pahadi Chak, P.S.+ P.O.-Sonpur, District-Saran.
2. Rajan Kumar Singh adoptive Son of Late Jitendra Singh, Resident of Village-Pahadi Chak, P.S+ P.O.-Sonpur, District-Saran.

... .. Petitioner/s

Versus

Rina Singh, D/o Late Singeshwar Singh, R/o Vill Sehan, P.O.Sehan, P.S.-Mahua, Distt.-Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Sharma, Advocate Mr. Neeraj Sanidh, Advocate Mr. Ashwani Raj Narayan, Advocate Mr. Chitragupta, Advocate
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 15-01-2024

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

2. The instant petition has been filed by the petitioners against the order dated 18.05.2017, passed by learned Sub-Judge, Sub-divisional Civil Court, Sonpur (Saran) in Title Suit No. 472 of 2005, seeking directions for setting aside the said order.

3. The facts of the case, as it appears from the record are that the petitioners have filed the Title Suit No. 472 of 2005 against the defendant/respondent, namely, Rina Devi for



declaration of title over suit property and also for restraining the defendant/respondent from selling the ancestral property of the petitioners. In the course of hearing, while evidence of DW7, namely Arun Kumar Singh, was being recorded, the said witness made certain statement in his examination-in-chief which was stated to be completely irrelevant to the facts in the suit and at the same time it was scandalous and affected the dignity and chastity of petitioner no.1, a widow lady. The petitioners made an application before the learned Sub-Judge, Sub-divisional Civil Court, Sonpur (Saran) for deleting the scandalous and irrelevant statement, given by the defendant's witness, in his examination-in-chief. However, the learned Subordinate Court, while disposing of the application of the petitioner, passed an order on 18.05.2017 in the said Title Suit No. 472 of 2005, issuing warning to the petitioners to complete cross-examination of defendant's witness, namely, Arun Kumar Singh. The said order is under challenge before this Court.

4. The learned counsel appearing on behalf of the petitioners submits that the learned Subordinate Judge has not considered the provisions of Section 151 of the Indian Evidence Act which specifically provides that the Court may forbid any question or inquiry which it regards as indecent or scandalous



although such question or inquiry may have some bearing on the question before the Court, unless they relate to the fact in issue. Learned counsel further submits that the learned trial court did not consider that the dignity of petitioner no.1 was questioned by the witness which was completely irrelevant in the facts of the given case. Similar to the effect is Section 152 of the Indian Evidence Act which casts a duty upon the Court to forbid any question which appears to it to be intended to insult or annoy or which though proper in itself appears to the court needlessly offensive in form. The learned trial court further failed to take into consideration the principle of relevancy of fact as described under Section 5 to Section 55 of the Indian Evidence Act. Thus, learned counsel submits that the order of the learned trial court is in ignorance of law and judicial precedent established by the Hon'ble Supreme Court that any scandalous and irrelevant question having no relevance to matter in issue ought not to be allowed.

5. Perused the record.

6. Having regard to the facts of the case and submission made on behalf of the petitioners, it transpires that the petitioners filed an application for deleting certain portion of the deposition from examination-in-chief of defendant's witness



no.7, namely, Arun Kumar Singh. These portions, as it appears from the copy of the application dated 18.05.2017 are with regard to paragraph nos. 7, 8 and 9. The petitioners have challenged the deletion of these portions on the ground that the deposition in the aforesaid paragraphs is against the pleading and nothing has been submitted in the pleadings of the defendant on the point on which the DW7 has deposed in the aforesaid paragraphs. But in my view, whatever has been stated in paragraph nos. 7, 8 and 9, the same is with regard to the respondent, namely, Rina Devi @ Rina Singh and her status and the facts related with her action, which has been challenged by the plaintiffs/petitioners. Paragraph Nos. 7, 8 and 9 of the deposition of DW7 read as under:-

“7. जीतेन्द्र सिंह 2003 में मर गये । मृत्यु के बाद उनकी औरतश्राद्ध क्रिया, ब्राह्मण भोज वोगैरह करवायी । मुखागनी भतीजा मनोज सिंह वल्द महेन्द्र सिंह ने दिया था । मृत्यु के चन्द वर्ष बाद रीना ने पति के याद में जीतेन्द्र सिंह का मूर्ती बनवायी है ।

8. यह कि जीतेन्द्र सिंह के मरने के बाद रीना कुंअर जीतेन्द्र सिंह के जायज उत्तराधिकारी हुई और है । बहेतियत पत्नी रीना देवी को अपने पत्नी के सभी जायदाद पर दखल कब्जा चला आ रहा है और जीतेन्द्र सिंह के घर में रहती है ।



9. मुसम्मात रीना देवी ने अपने पति के श्राद्ध क्रिया के खर्च कर्ज के चुकता करने वो जरूरत के पूर्ती के लिये दो कठा दो धुर जमीन एक लाख अठारह हजार रूपया लेकर सन 2005 में रजिस्टरी वैनामा मेरी पत्नी के नाम से करके दखल कब्जा करा दिया है तब से मेरादखल कब्जा चला आ रहा है। मेरे अलावे अन्य लोगो को भी वैनामा परपेशगी किया है।"

7. In their applications, the petitioners have not pointed out anything about scandalous nature of deposition of DW7 in his examination-in-chief. So far as relevance of the evidence recorded on behalf of DW7 is concerned, is to be considered by the learned trial court while appreciating the evidence vis-a-vis the issues framed.

8. It is settled law that only the evidence which is relevant to fact in issue is required to be brought on record by the parties and irrelevant evidence would not be considered. But that is to be decided holistically and evidence of any witness cannot be expunged merely because it is not palatable to the other side or there might be an issue of relevance raised subsequently with regard to such evidence. But that issue is to be decided by the learned trial court after due consideration and not in this manner or on any application being moved on behalf of the other side for deleting the certain portion of evidence, that too, without



giving specific instance of the scandalous nature of the evidence and also without pointing out irrelevant portion of the pleading and evidence being against such pleading.

9. In view of the aforesaid facts and circumstances and discussion made so far, I do think there is any need to interfere with the impugned order and as such I do not find any merit in the petition of the petitioners and, hence, the same is dismissed.

10. However, the learned trial court is directed to expedite the trial and conclude the same at the earliest and at the time of final disposal, the contention of the petitioners would be taken into consideration and disposed of with reasoned order.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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