

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.75 of 2017

- 1.1. Nirmala Sinha W/o Late Arjun Singh resident of Village- Moratalab, P.S.- Rahui, District- Nalanda.
- 1.2. Satyam Shivam Shubham S/o Late Arjun Singh resident of Village- Moratalab, P.S.- Rahui, District- Nalanda.
- 1.3. Gangesh Gyan Gunjan S/o Late Arjun Singh resident of Village- Moratalab, P.S.- Rahui, District- Nalanda.

... .. Petitioner/s

Versus

- 1.1. Amir Singh, Son of late Bhagirth Singh, Resident of Village- Agwanpur, at Present Resident of Village- Moratalab, P.S. Rahui, District-Nalanda.
- 1.2. Shyam Singh, Son of late Bhagirath Singh, Resident of Village- Agwanpur, at Present Resident of Village- Moratalab, P.S. Rahui, District-Nalanda.
- 1.3. Balram Singh, Son of late Bhagirath Singh, Resident of Village- Agwanpur, at Present Resident of Village- Moratalab, P.S. Rahui, District-Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rabi Bhushan Prasad No. 1, Advocate Mr. Vijay Prakash Bhargava, Advocate
For the Respondent/s	:	Mr. Nagendra Rai, Advocate Mr. Koshalendra Rai, Advocate Mr.Surendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 29-08-2024

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

2. The instant petition has been filed under Article 227 of the Constitution of India for setting aside the orders dated 22.06.2016 and 21.09.2016 passed in Title Suit No. 51/2014 by the learned Additional Munsif-II, Biharsharif, Nalanda by which the petition dated 13.04.2016 filed on behalf of the



defendant/original petitioner for taking on record the original copy of sale deed has been rejected and further review petition dated 20.07.2016 has also been rejected.

3. The learned counsel for the petitioners submits that the original petitioner was defendant and he filed an application for taking on record certain documents as additional evidence though belatedly when the evidence of the plaintiff was closed. The learned trial court considering the delay refused to admit the new evidence on record on the ground that the evidence of the plaintiff was already closed and no new evidence, which would affect the issues, could be allowed to be brought on record as it was not justified. In this regard, the learned counsel for the petitioners relies on the *decision dated 17.05.2022* passed in *Civil Appeal No. 4096 of 2022 (Levaku Pedda Reddamma & Ors. vs. Gottumukkala Venkata Subbamma & Anr.)* by the Hon'ble Supreme Court wherein it has held that a party could not be deprived from filing documents even if there is some delay as it would lead to denial of justice.

4. On the other hand, learned counsel appearing on behalf of the respondents submits that the defendant sought to bring on record additional evidence after the evidence of the plaintiff was closed and, thus, allowing the evidence at this



stage would prejudice the cause of the plaintiff. The learned counsel further submits that if any opportunity is granted to the defendants, the same should be subject to imposition of heavy cost and with liberty to the plaintiff to rebut the evidence so produced by the defendants/petitioners.

5. Having regard to the rival submissions and considering that rules of procedure are hand-maid of justice and even if there is some delay, the delay should have been condoned and the defendant should have been allowed to bring on record the relevant documents as additional evidence, if the same are necessary for adjudication of controversy between the parties. But condonation of such delay should be subject to some costs and hence, without further discussion of the matter, the impugned orders dated 22.06.2016 and 21.09.2016 are set aside subject to payment of cost of Rs.5,000/- to be paid by the defendants/petitioners to the contesting plaintiff/respondent on the first date before the learned trial court from today. Consequently, the applications dated 13.04.2016 & 20.07.2016 filed on behalf of the original petitioner/defendant before the learned trial court is allowed.

6. Accordingly, the instant petition stands allowed.

7. However, it is made clear that this Court has not expressed any opinion on merits of the case of the respective



parties as well as documents permitted to be brought on record as additional evidence and it would be for the learned trial court to deal with the same in accordance with law and on its own merits, but after giving ample opportunity to the plaintiffs/respondents to rebut/controvert the documents sought to be brought on record, if they so desire.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2024
Transmission Date	NA

