

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1472 of 2017

1. Sant Lal Uraon Son of Late Bachhu Uraon @ Bochai,
2. Nandu Uraon, Son of Late Bachhu Uraon @ Bochai.
3. Satya Narayan Uraon, Son of Late Bachhu Uraon @ Bochai.
4. Dharam Chand Uraon, Son of Late Tholai Bele Uraon, All resident of Village- Birpur, Police Station- Mufassil Sadar, District- Purnea.

... .. Petitioner/s

Versus

Deonath Uraon Son of Late Sanichar Uraon, Resident of Village- Birpur,
Police Station- Mufassil Sadar, District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Md. Hussain, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 01-05-2025

Despite service of notice and opportunity given, respondent is still unrepresented and hence, the matter has been taken up for hearing and I intend to dispose of the petition at the stage of admission itself.

2. Heard learned counsel for the petitioners.

3. The present petition has been filed for quashing the order dated 01.04.2017 passed by learned Sub Judge- Ist, Purnea in Title Suit No. 396 of 2013, whereby and whereunder the petition filed under Section 151 of the Code of Civil Procedure (in short 'the Code') for recalling the order dated



31.03.2015 has been rejected.

4. Learned counsel for the petitioners submits that the petitioners are defendants before the learned trial court and the respondent is plaintiff who has filed Title Suit No. 396 of 2013 for partition of his share in the suit land. The petitioners appeared in the learned trial court by filing vakalatnama through their pairvikar along with defendant nos. 3, 4, 11 and 12. One Baidnath Uraon was the Karpardaz of the petitioners and he assured the petitioners that he would be making proper pairvi in the case but left the pairvi and went to Punjab to earn his livelihood. Meanwhile, the petitioners came to know that they have been debarred from filing the written statement vide order dated 31.03.2015. Coming to know about this fact, the petitioners filed a petition under Section 151 of the Code on 12.05.2016 for recalling the order dated 31.03.2015. The petitioners also filed written statement on 25.06.2016. However, learned trial court after hearing the parties rejected the petition filed for recalling the order dated 31.03.2015 and the said order is under challenge before this Court. Learned counsel further submits that the petitioners are rustic persons belonging to ST category and they entrusted the pairvi of the case to their Karpardaz and due to fault of their Karpardaz, their written



statement could not be filed within the stipulated time and there is no deliberate delay on part of the petitioners in filing the written statement. The suit is at initial stage and there is no latches or negligence on part of the petitioners. But the fact was not considered by the learned trial court and refused to allow the petition for recalling of the order debarring the petitioners from filing their written statement and the said order is not proper or valid.

5. Perused the record.

6. From perusal of record I find that the learned trial court refused to allow the petition of the petitioners for recalling the order debarring them from filing the written statement on the ground that it was filed after delay of two years and if the prayer of the petitioners was allowed, it would render the provision for filing written statement meaningless. However, the Hon'ble Apex Court has time and again held that the provision of Order 8 Rule 1 of the Code are directing in nature and reference could be made to the case of ***Kailash v. Nankhu & Ors.*** reported in ***(2005) 4 SCC 480*** and ***Salem Advocate Bar Association, TamilNadu vs Union Of India reported in AIR 2005 SC 3353***. It also appears from the record that the petitioners entrusted the pairvi of their case to their Karpardaz



but he did not make proper pairvi and left for Punjab and for this reason, the petitioners had no means to know what is happening before the learned trial court. Further, it is claimed that the petitioners are rustic persons coming from the category of Scheduled Tribes and were not much acquainted with the provisions of law. The learned trial court ought to have taken all these facts into consideration before rejecting the prayer of the petitioners.

7. Having regard to the facts and circumstances and for the ends of justice, the impugned order dated 31.03.2015 is set aside and the petition dated 12.05.2016 filed by the petitioners is allowed. The written statement filed by the petitioners could be taken on record subject to payment of cost of Rs.3,000/- to the plaintiff/respondent on the first date before the learned trial court.

8. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2025
Transmission Date	NA

