

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2149 of 2017**

Daroga Singh, Son of Late Ram Dayal Singh, Resident of Village- Dighawa,
Tola- Mohanray, Dro Dighawa Dupali, P.S.- Baikunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

Sudama Singh, Son of Late Jagarnath Singh, Resident of Village- Dighawa,
Tola- Mohanray, Dro Dighawa Dupali, P.S.- Baikunthpur, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Milind Kumar Mishra, Advocate Mr. Yogendra Tiwari, Advocate
For the Respondent/s	:	Mr. Surendra Prasad Gupta, Advocate

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 18-03-2025

Heard learned counsel for the parties.

2. The petitioner is aggrieved by the order dated 20.07.2017 passed by the learned Subordinate Judge-VI, Gopalganj in Title Suit No. 297 of 2010 whereby and whereunder the petition filed by the petitioner on 20.01.2017 has been dismissed.

3. The learned counsel for the petitioner submits that the petitioner is plaintiff before the learned trial court and has filed Title Suit No. 297 of 2010 for declaration of his title over the suit property. One Bhagwat Singh had three daughters and Bhagwat Singh died on 20.05.1994 and his property was



divided equally amongst his three daughters. The plaintiff nos. 1 and 2 are purchasers from the daughters of the said Bhagwat Singh. On 04.04.2014, the plaintiff/petitioner filed a petition seeking to recall himself to adduce the evidence on the point of death of Bhagwat Singh. However, the aforesaid petition was rejected by the learned trial court vide order dated 21.05.2015. The recall was necessitated due to the fact that the plaintiff/petitioner had deposed in his cross-examination that he has no knowledge about the documents relating to the death of Bhagwat Singh and he cannot file any document relating to death of Bhagwat Singh. Subsequently, plaintiff/petitioner came into possession of death certificate of Bhagwat Singh and, thereafter, moved application of recall, which was dismissed. On 20.01.2017, another petition was filed by the plaintiff/petitioner for exhibiting the death certificate of Bhagwat Singh, but again the learned Subordinate Judge-VI, Gopalganj rejected the petition vide order dated 20.07.2017, which is under challenge before this Court.

4. The learned counsel for the petitioner further submits that the death certificate of Bhagwat Singh is a necessary document for effective disposal of the suit. The learned trial court ought to have allowed the document to be



marked as exhibit in the suit. The learned counsel further submits that the plaintiffs are purchasers from the daughters of Late Bhagwat Singh and, for this reason, it was more necessary that the date of death of Bhagwat Singh be established during the proceeding, but the learned trial court did not consider the facts and circumstances and rejected the petition filed by the petitioner. The said order could not be sustained.

5. The learned counsel appearing on behalf of the respondent opposes the submission made on behalf of the petitioner. The learned counsel submits that prior to filing of the application dated 20.01.2017, the petitioner filed an application on 04.04.2014 for recalling the plaintiff for adducing the evidence with regard to death certificate of Bhagwat Singh, but the said petition was rejected by the learned trial court vide order dated 21.05.2015 taking note of the fact that in paragraph 31 of the cross-examination, the plaintiff has specifically stated that he has no knowledge about the document relating to death of Bhagwat Singh and he cannot file any document relating to his death. Now after procuring the document, the plaintiff wants to adduce the evidence and to bring the document on record as exhibit. But the plaintiff has already adduced the evidence in this regard and if he now produces the documents, he would be



contradicting himself on the point of death of Bhagwat Singh. The learned trial court has taken note of earlier rejection of the petition. So, learned trial court has rightly rejected the petition of the petitioner.

6. Having regard to the rival submission of the parties and on perusal of record, I find that after failing to get an order in his favour on an application dated 04.04.2014, which was never challenged, the plaintiff/petitioner now wants to indirectly bring the fact of death of Bhagwat Singh in his evidence by trying to bring on record the death certificate of Bhagwat Singh. If the earlier order dated 21.05.2015 has not been challenged, it has attained finality. Moreover, once the plaintiff has deposed that he was not having any document regarding death of Bhagwat Singh, if some documents are brought on record at later stage, without any pleading or evidence in this regard, such document would be against the specific deposition of the plaintiff and could not be allowed to be brought on record. Further, hardly any case has been made out showing essential nature of document sought to be brought on record.

7. In the light of aforesaid discussion, I do not find the impugned order suffers from any infirmity as the same has been passed after due consideration and, therefore, the same is



affirmed.

8. Accordingly, the instant petition is dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.03.2025
Transmission Date	NA

