

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1396 of 2016

Usha Devi Wife of late Lalan Singh Resident of Village- Jhouwa, P.O. Belbania, P.S. Sahapur, District - Bhojpur.

... .. Petitioner/s

Versus

2. Basanti Devi Wife of Chhathi Ram Singh, Resident of Mouza, Karisai, P.O. Karisai, P.S. Udwant Nagar, Distt. Bhojpur.
3. Abha Devi Wife of Bhim Singh, Resident of Mouza, Karisai, P.O. Karisai, P.S. Udwant Nagar, Distt. Bhojpur.
4. Chhathi Ram Singh Son of Bhukhan Singh, Resident of Mouza, Karisai, P.O. Karisai, P.S. Udwant Nagar, Distt. Bhojpur.
5. Bhim Singh Son of Bhukhan Singh, Resident of Mouza, Karisai, P.O. Karisai, P.S. Udwant Nagar, Distt. Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anish Chandra Sinha, Advocate
For the Respondent nos. 1, 2, 3	:	Mr. Dharendra Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 15-07-2025

Heard learned counsel for the parties.

2. Petitioner is aggrieved by the order dated 13.06.2016 passed by learned Sub Judge, Jagdishpur in Title Suit No. 14 of 2001 whereby and whereunder the learned trial court rejected the application dated 19.07.2014 filed on behalf of the petitioner for adducing evidence which had already been closed.

3. Learned counsel for the petitioner submits that evidence of the petitioner was closed on 28.07.2005. Thereafter, an application for recalling the said order was filed but the said



application was rejected on 11.08.2005 by the learned trial court. Against the rejection order the plaintiff/petitioner approached this Court by filing C.W.J.C. No. 14909 of 2010. The said writ was allowed vide order dated 19.03.2013 subject to payment of cost of Rs. 2500/- directing the plaintiff/petitioner to adduce all her evidence within two weeks after Holi holidays. But the learned counsel who had been attending the Court did not inform the plaintiff/petitioner within time and for this reason the plaintiff could neither deposit the cost within time nor adduce the evidence. Learned counsel further submits that the petitioner deposited the cost though after some delay and filed application before the learned trial court for allowing her to adduce the evidence. The application dated 29.07.2013 was dismissed for not being moved. Further another application dated 21.03.2014 was dismissed as not pressed on 06.04.2014. Thereafter, the application dated 19.07.2014 was filed mentioning all the facts, requesting the learned trial court to allow the plaintiff/petitioner to adduce her evidence, but the said application was also rejected on the ground that the application was filed in order to delay the proceeding.

4. Learned counsel further submits that the petitioner is an illiterate lady and a widow and she could not come to



know about the order passed by the High Court in C.W.J.C. No. 14909 of 2010 on time so there occurred some delay in depositing the cost and thereafter the plaintiff moved for allowing her to adduce her evidence, but her prayer was rejected. Learned counsel further submits that the suit has been filed by the plaintiff/petitioner and she should get an opportunity to bring her evidence for proper disposal of her case. Thus, the learned counsel submits that the impugned order has not considered this fact and the same is not sustainable.

5. Learned counsel appearing on behalf of the respondent vehemently contends that there is no merit in the present petition and the same be dismissed. Learned counsel further submits that plaintiff/petitioner has a habit of filing frivolous application and even though she has been granted time by this Court for adducing evidence after depositing cost but instead of adducing evidence after depositing the cost, she delayed the matter and thereafter she started filing application when there was no need for the same. The petitioner has violated the orders passed by this Court in C.W.J.C. No. 14909/2010 and she does not deserve any mercy at this stage. Learned counsel further submits that even otherwise there is no infirmity in the impugned order and the same does not need any



interference.

6. Perused the record.

7. Perusal of record shows the plaintiff/petitioner has filed the suit seeking the relief that gift deed of the defendants pertaining to the suit land is a fraudulent document. From the plaint it also appears that there is no other person in the family of the plaintiff. Admittedly, the plaintiff did not comply the orders of this Court passed in C.W.J.C. No. 14909 of 2010 but considering her plight and also considering the settled position of law that every litigant should get a fair opportunity of presenting his case and bringing best possible evidence for the same, without going into further discussion, the impugned order dated 13.06.2016 is set aside, subject to the payment of cost of Rs.20,000/- to be paid to the respondents. Thereafter, the plaintiff/petitioner would adduce all her evidence within two weeks.

8. Learned trial court is directed to fix the matter in such a manner that the evidence of the plaintiff is concluded within two weeks. The parties are directed to appear before the learned trial court on the date fixed and the plaintiff would make payment of the cost on the same date. Thereafter, the learned trial court would fix dates to enable the plaintiff to adduce her



evidence within two weeks.

9. Accordingly, the present petition stands disposed
of.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.07.2025
Transmission Date	N/A

