

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1128 of 2024

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Anil Kumar Gupta Son of Late Anandi Prasad Gupta Resident of Purana
Thanna Road, Village- Bihta, P.S. and P.O.- Bihta, District- Patna.

... .. Petitioner

Versus

1. Md. Jasimuddin Son of Late Kasim Ansari Resident of Azmeri Nagar,
Village- Bihta, Police Station- Bihta, District- Patna, Presently residing at
Ward No.-6, Baro Rajdeopur Tola, P.O.- Baro, P.S. Phulwaria, District -
Begusarai, Bihar.
2. Md. Iashmul Haque Son of Late Aale Nabi Ansari Resident of Azmeri
Nagar, Village- Bihta, Police Station- Bihta, District- Patna, Presently
residing at Ward No.-6, Baro Rajdeopur Tola, P.O.- Baro, P.S. Phulwaria,
District - Begusarai, Bihar.
3. Md. Anshar Ahmad Ansari Son of Late Aale Nabi Ansari Resident of Azmeri
Nagar, Village- Bihta, Police Station- Bihta, District- Patna, Presently
residing at Ward No.-6, Baro Rajdeopur Tola, P.O.- Baro, P.S. Phulwaria,
District - Begusarai, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kumar Roy, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 13-05-2025 The matter has been taken up on mentioning being
made on behalf of the petitioner.

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

03. The petitioner is aggrieved by the order dated
20.08.2024 passed by the learned Sub Judge-IV, Danapur in
Miscellaneous Case No. 47 of 2018 whereby and whereunder
the application filed by the petitioner under Order 18 Rule 17



r/w Section 151 of the Code of Civil Procedure (for short 'the Code') has been dismissed.

04. Learned counsel for the petitioner submits that the petitioner's witness no. 3 (PW-3), Satendra Kumar, was examined and cross-examined on 15.05.2024. In the last paragraph of his cross-examination, i.e., para no. 22, suggestion was given to the witnesses that whatever he has deposed as witness was wrong and the same was denied by the witness, but denial has not come in para-22 wherein it has been merely mentioned that witness deposed "that whatever evidence has been adduced by him in the present case the same was incorrect/wrong". It is apparent from bare reading of said deposition that when all the evidence of the witness in his examination-in-chief or even in his cross-examination has been based on documents and his knowledge and he deposed the facts supporting the case of the petitioner, statement like all his evidence was wrong only in last paragraph does not appear to be reasonable by any count. Only to clarify this aspect of the matter, the petitioner has filed the application dated 18.07.2024 under Order 18 Rule 17 r/w Section 151 of the Code, but the learned trial court dismissed the same without considering the facts and circumstances of the case.



05. Perused the record.

06. From perusal of record, it is apparent that the application dated 18.07.2024 has been filed by the petitioner who is aggrieved by the statement made by PW-3 in paragraph-22 while his cross-examination was being done. The petitioner cannot demand for recalling of the witness in order to clarify the evidence of the witness, as Order 18 Rule 17 of the Code is simply an enabling provision for the court in case it needs clarification on some aspect of the evidence recorded by the witness. Whatever evidence was adduced by the PW-3, the same is part of the proceeding of court and the court's record cannot be lightly interfered with. However, if the witness would have come before the Court and has stated that his evidence was not correctly recorded or there was any typographical error, then the matter would have been different. But, in the present case, the petitioner, who is not the witness, wants clarification by recalling the witness, such prayer could not be allowed and for this reason, I do not find any infirmity in the impugned order dated 20.08.2024 to that extent. Therefore, the impugned order dated 20.08.2024 is affirmed.

07. Accordingly, finding no merit in the present petition, the same is dismissed. However, if the witness (PW-3)



approaches the court seeking correction in his evidence with regard to some missing words, the learned trial court would consider such prayer on its merit and strictly in accordance with law.

(Arun Kumar Jha, J)

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