

COURT - SUB-JUDGE / BAKHRI (BEGUSARAI)

Title Suit No. 21 of 2016

Anandi Yadav & others versus Most. Raj Kumari Devi and others

20 / 09 / 2019 - Today record is put up for passing an order on the petition filed by the plaintiff on the date 11.09.2018 for con-donation of delay for filing the documents and another under Section 74 of Indian Evidence Act. Plaintiff submits that on the date 28 / 08 / 2018 he has filed the original documents and which should be considered and delay may kindly be condoned .

Defendants filed rejoinder and submits that it is important to note here that trial of the suit has commenced much earlier and plaintiff has got examined several witnesses including himself and much time thereafter the plaintiff has filed the documents on 28.08.2018 seeking leave of the court and now again on 11.09.2018 the plaintiff has not filed any petition for grant of leave of the court, rather instead of filing a petition for leave of the court , he has filed a petition for con donation of delay which is itself bad in the eye of law and in this way the petition is fit to be rejected and provision of condonation of delay is governed by Section 5 of Limitation Act and same is applicable in a case where any petition has been filed after expiry of stipulated period but same is not applicable in the present case. Defendant further submits that once no petition for grant of leave has been filed by the plaintiff further prayer of the plaintiff through another petition filed under Section 74 of Evidence Act cannot be allowed and both the petitions dated 11.09.2018 filed by the plaintiff is fit to be rejected.

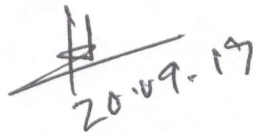
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20.09.19

Heard both the sides and perused the record . It is opinion of the court that as per Order 7 Rule 14(1) where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he is required to enter such documents in a list and produce it before the Court. In the present case, plaintiffs were having such documents as has been argued by learned counsel for the petitioners that photocopies of such documents were already on record. Thus, plaintiffs were having knowledge of the documents and as per the submissions made by learned counsel for the petitioners, they had already produced photocopies of such documents on record. Therefore, in terms of the provisions of Order 7 Rule 14(2) it was necessary for the plaintiffs to have mentioned that in whose possession the original document was but there is no such mention and it is simply filed this petition with out any solid reasons .

According to the Order 7 Rule 14(3) which provides that a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. In the present case, as per the averments made by the learned counsel for the petitioners, photocopies of the documents were already produced before the trial Court, therefore, nothing precluded them from obtaining original copies of said documents and plaintiffs should not have waited for a long time for the

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production of said original documents . It is also clear that some witnesses has been examined by the plaintiff . Hence in the above-mentioned facts and circumstances plaintiff is directed to file a petition first , to take a leave from the court under Order 7 Rule 14(3) C.P.C . With this observation both the petition filed by the plaintiff are disposed of . Put on the date 21 / 10 / 2019 for the compliance of this order .

A handwritten signature in black ink, consisting of a stylized 'H' with a vertical line through it, followed by the date '20.09.19' written below it.

SUB-JUDGE , BAKHRI