

**In the court of Vaibhav Kumar, Civil Judge Jr. Division,
Areraj, East Champaran.
Title Suit No. 51-1998
Sukdev Sah Vs Hardev Sah**

Date of order or proceeding	Order with the signature of the Court	Office action taken with date
04-04-2026	Attendance has been filed on behalf of plaintiff and defendant. Case called out. Today this record is put up for order on the petition dated 12-11-2025 and rejoinder to this said petition has been filed on 18-02-2026 by defendant. The present petition has been filed by the plaintiff stating that the previous petition was filed by the defendant for recalling the plaintiff's witness, namely Nathuni Miya, for the purpose of cross-examination which was earlier allowed subject to payment of cost of Rs. 300/-. It is submitted that the said cost has not been paid to the witness till date. It is further stated that the said witness is suffering from paralysis and is unable to appear before the Court. In support of the same, a medical prescription has also been filed on record. On these grounds, prayer has been made to expunge the said witness from the record. Per contra, the defendant has filed rejoinder denying the averments made in the petition and contending that the same is not maintainable. It has been submitted that the cost amount was to be paid to the witness and since the witness has not appeared before the Court, the question of payment does not arise. It is further contended that the plaintiff has other remedies available under law. Hence, prayed that the petition may be rejected. Heard learned counsel for both parties and perused	

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the record. From the record, it appears that the recall of the plaintiff's witness was allowed subject to payment of cost of Rs. 300/- to the witness. Admittedly, the said cost has not been paid till date. The condition imposed by the Court while allowing recall was mandatory in nature, and non-compliance thereof disentitles the defendant from availing the benefit of such order. Further, the plaintiff has brought on record a medical prescription indicating that the witness has suffered from paralysis and is not in a position to attend the Court proceedings. The said fact has not been effectively controverted by the defendant by any material on record.

In view of the medical condition of the witness, this Court is of the considered opinion that it would not be just and proper to keep the witness on record or to compel his appearance for cross-examination. Accordingly, the petition filed by the plaintiff is allowed. The witness Nathuni Miya is hereby expunged from the record and the opportunity granted to the defendant for his cross-examination stands closed.

Put the record on for further proceeding.

Vaibhav Kumar
C.J.J.D. 04/04/2026

Areraj.

Date of Order	04/04/2026
Date of Reserving Order	16/03/2026
Uploaded Date	06-04-2026
Uploaded by	ARUNPRASHANKUMAR MISHRA

(D.E.O)