

IN THE COURT OF DISTRICT JUDGE, PATNA

MISCELLANEOUS CASE No.109 OF 2025

Girdhari Prasad

Petitioner

Vs.

**M/s Indian Summer Restaurant and Cafe
through his proprietor Sri Prabhat Kumar Sahu**

Opposite Party

**Order
No.**

Date

ORDER

10 18-05-2026

1. The present miscellaneous application has been filed under Section 151 of the Code of Civil Procedure, 1908, read with Rules 224 and 225 of Chapter II of the General Rules of the Civil Court, 1954 (Patna High Court), by the petitioner, **Girdhari Prasad**, praying therein, **for tracing the trial court record of Eviction Suit No. 47 of 2011 and attaching it to the record of Title Eviction Appeal No. 08 of 2019**, which is pending before the Court of the learned District Judge XVII, Patna.
2. Learned counsel for the petitioner submitted that the petitioner, being the plaintiff in Eviction Suit No. 47 of 2011, had preferred Title Eviction Appeal No. 08 of 2019 against the judgment and decree dated 24.01.2019 & 02.02.2019, passed by the Court of the learned Civil Judge (Senior Division)-IV, Patna. The appeal was admitted on 24.06.2019 and, by order dated 03.08.2019, transferred to the Court of the learned District Judge XVII, Patna, where the record was received on 16.08.2019. On 07.09.2019, the appellate court directed that the Trial Court Record (TCR) of Eviction Suit No. 47 of 2011 be called for. As the TCR was not forwarded, the appellant filed a petition on 25.10.2019, whereupon the appellate court issued a show cause notice to the trial court. Ultimately, the TCR was received and attached to the appeal record on 14.02.2020.
3. Learned counsel further submitted that the appellant filed an application under Order XLI Rule 27 read with Section 107 CPC, to which the respondent filed a reply on 22.08.2022. After hearing both sides, the appellate court allowed the appellant's petition on 24.02.2023 and directed

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**Contd.....
(18-05-2026)**

the office to mark four certified copies of original documents as Exhibits 5 to

8. Subsequently, upon change of presiding officer, when the appeal was taken up for final hearing, it was discovered that the TCR of Eviction Suit No. 47 of 2011 had been misplaced from the appeal record. Despite repeated directions, the trial court record was not traced or reattached. Hence, the petitioner prayed that the TCR be located and attached to the appeal record to enable expeditious disposal of the matter in the interest of justice.

4. Vide order dated 04.11.2025, this Court sought a report from the Court of the learned District Judge XVII, Patna regarding the pendency and stage of Title Eviction Appeal No. 08 of 2019.
5. From perusal of the report, it appears that the appeal is presently at the stage of hearing on the respondent's petition dated 25.11.2025 filed under Order XLVII Rule 1 read with Section 114 CPC. The appellant has also filed a reply thereto. The matter was listed for hearing, and though both parties marked attendance on 28.04.2026, none appeared when the case was called. The report further confirms that the TCR of Eviction Suit No. 47 of 2011 is available on record.
6. In view of the above, it is evident that the relief sought by the petitioner has already been redressed. Accordingly, the present miscellaneous application stands **disposed of**.

(Dictated)

**Sd/-
(Rupesh Deo)
Principal District Judge,
Patna**

Date of Order	18.05.2026
Date of Reserving Order	06.05.2026
Uploading Date	18.05.2026
Uploaded by	Balmukund/-