

Zulaikha Khatoon Vs Nisar Alam @ Asad Alam

Court: Jharkhand High Court

Date of Decision: Jan. 7, 2025

Acts Referred: Code of Civil Procedure, 1908 " Order 7 Rule 14(2)

Hon'ble Judges: Sanjay Kumar Dwivedi, J

Bench: Single Bench

Advocate: P.K. Mukhopadhyay, Afaq Rashidi, Shaiesta Nazeer

Final Decision: Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard the learned counsel for the petitioner as well as the learned counsel appearing on behalf of the opposite party.

2. This petition has been filed for quashing of the order dated 13.12.2022 passed by the learned Civil Judge (Senior Division) VIII, Hazaribagh in

Partition Suit No.130 of 2015, whereby learned court has been pleased to allow the petition under Order VII Rule 14(2) of the CPC for production of

the documents.

3. Mr. Mukhopadhyay, the learned counsel appearing on behalf of the petitioner submits that the learned court has wrongly passed the order and the

documents directed to be produced are not in possession of the defendants as such, the said order may kindly be quashed.

4. Learned counsel for the O.P.No.2 submits that the learned court has given the cogent reason of passing such order and in view of that there is no

illegality in the order.

5. Admittedly, a petition was filed under Order VII Rule 14(2) CPC directing the defendants to produce the documents with regard to the scheduled 1

to 4 of the property of the plaint and the learned court considering the admission in paragraph no.18 of the written statement of the defendants has

directed to produce the same which is under challenge and the only argument is advanced that the said documents are not with the defendants.

However, in the written statement the admission is there that the defendants are having the possession, right, title and interest of the suit property.

6. If such direction is there by the learned court of producing any document, the relevance of which can be examined by the trial court on the basis of

the evidence to be led, but to deprive a party to the suit not to file the document even there is some delay will lead to denial of justice. It is well-settled

that the rules of procedure are hand-made of justice and therefore even if there is some delay the learned trial court should have imposed some cost

rather than to decline the production of the documents. If the plaintiff/respondents want to lead any additional evidence with regard to the documents

in question, they can pray before the learned court and the learned court can consider that aspect of the matter in accordance with law. There is no

illegality in the impugned order, and as such, this petition is dismissed.

7. However, the dismissal of this petition will not prejudice the case of either of the parties and the learned court will decide the suit in accordance

with law.

8. Pending petition, if any, also stands disposed of accordingly.