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Date: 25/10/2025

Sanjay Kumar Singh Vs Janeshwar Singh and Another

Writ Petition (C) No. 4024 of 2011

Court: Jharkhand High Court

Date of Decision: Oct. 10, 2011

Acts Referred:
Civil Procedure Code, 1908 (CPC) â€" Order 18 Rule 17, Order 7 Rule 14, Order 7 Rule 14(3)

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Narendra Nath Tiwari

1. In this writ petition, the Petitioner has prayed for setting aside the order dated 9th June, 2011 passed in Title Suit No. 214 of 2008, whereby

learned court below has allowed the Plaintiffs" petition for filing the documents and recalling the witnesses.

2. The said order has been challenged mainly on the ground that the Court has allowed the said prayer of the Plaintiffs at a belated stage after the

evidences of the parties was closed. It has been submitted that the documents, which were not mentioned in the plaint, cannot be accepted at the

belated stage and the Court has no jurisdiction to recall the witnesses at the belated stage.

3. Learned counsel appearing on behalf of the Respondents, on the other hand, submitted that after the evidences of the parties were closed, the

Defendants filed some documents, which were accepted by the Court giving liberty to the Plaintiffs to lead evidence in rebuttal.

4. The Plaintiffs, thereafter, filed the said petition under Order VII Rule 14(3) and Order XVIII Rule 17 for accepting some of the documents and

recalling the witnesses to prove the documents.

5. Learned court below, considering the said prayer and also considering other aspects has allowed the Plaintiffs" prayer.

6. I have heard learned counsel for the parties and perused the impugned order. I find that learned court below has recorded speaking reasons for

allowing the Plaintiffs'' petition. It has been specifically mentioned that the Defendants had filed mortgaged deed dated 3rd September, 1971,

which was accepted, as evidence, by the Court and liberty was given to the Plaintiffs to adduce evidence in rebuttal of the said document filed by

the Defendants. The documents filed by the plaintiff has been accepted under that circumstance and the witnesses have been recalled for proving

the same. In my view, learned court below has not committed any error in allowing the Plaintiffs'' aforesaid prayers.

7. Order VII Rule 14 of the CPC deals with the production of document on which the Plaintiff sues or relies. The said Rule 14 of Order VII is

reproduced herein below:-

14. Production of document on which plaintiff sues or relies-

(1) Where a Plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such

documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy

thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the Plaintiff, he shall, where possible, state in whose possession or power it is.

(3) 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.

(4) Nothing in this rule shall apply to document produced for the cross-examination of the Plaintiff''s witnesses, or, handed over to a witness merely

to refresh his memory.

8. On plain reading of Order VII Rue 14, it is clear that the Court can grant leave to produce any document, which was not produced when the

plaint was presented or which was not entered in the list.

9. Order XVIII Rule 17 of the CPC provides for recalling any witness and examining any witness at any stage of the suit. Order XVIII Rule 17

runs as follows:-

17. Court may recall and examine witness- The Court may at any stage of a suit recall any witness who has been examined and may (subject to the

law of evidence for the time being in force) put such questions to him as the Court thinks fit.

10. Order VII Rule 14(3) and Order XVIII Rule 17 of the CPC provide sufficient power to the Court to grant leave to produce any document at

any stage and to recall any witness at any stage of a suit.

11. Learned court below has exercised its power under the said provisions of law and has recorded speaking reasons for allowing the petition filed

by the Plaintiffs.

12. I find no error of law or jurisdiction in the impugned order, warranting interference of this Court.

13. This writ petition is, accordingly, dismissed.