

Anand Kumar Gope and Others Vs Ghanshyam Gope and Others

Court: Jharkhand High Court

Date of Decision: March 19, 2012

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 18 Rule 17

Citation: (2012) 3 JCR 466

Hon'ble Judges: Poonam Srivastava, J

Bench: Single Bench

Advocate: Munna Lal Yadav, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Mrs. Poonam Srivastav, J.

Heard Learned Counsel appearing on behalf of the petitioners. The petitioners are aggrieved by order dated

07.01.2009 passed by the Sub-Judge-VI, Hazaribagh in Title Suit No. 30 of 1989 rejecting the application preferred at the instance of intervenor-

petitioners on 17.09.2008 and also order dated 18.01.2012 passed by the District Judge, Hazaribagh, in Misc. Appeal No. 02 of 2009

confirming the aforesaid order.

2. Suit was instituted in the year 1989 vide Title Suit No. 30 of 1989. The petitioners moved an application to array them as parties intervener,

which was rejected, but the said order was set at naught in C.R. No. 427 of 2001, Ghanshyam Gope v. Rajendra Gope & Ors. vide order dated

31.1.2002 and the petitioner was allowed to be arrayed as defendant in the suit. Thus, evidently, the petitioners were permitted to join the

proceedings in the month of January, 2002. Thereafter, the application under Order XVIII, Rule 17, CPC, was moved on 17.9.2008 evidently

after a long lapse of time.

3. I have perused the impugned orders. Specific finding is that the petitioners after filing the written statement waited for a considerable long time

for recalling the witnesses examined by the respondents. Since the petitioners failed to appear in the Court for considerable length, the Court below

had no other option, but to dismiss the petition of intervenors filed on 17.09.2008. The second application was moved for recalling the aforesaid

order and also to permit them to examine the witnesses, which was rejected by the impugned order and confirmed in Misc. Appeal No. 02 of

2009.

4. I have gone through the entire record and considered the arguments of the Learned Counsel I am not impressed because evidently the claim of

the petitioners was dismissed by the Courts below giving appropriate opportunity. When the first application came before the learned Sub-Judge,

plaintiffs and defendants were present before the Court, but the intervenor was absent. It has also been noticed by the Court below that

continuance of absence is only with a view to delay the proceeding.

5. In my opinion, the application was rightly rejected, because the suit is pending since the year 1939. Intervenor cannot stall the proceedings of

the suit at his whims and fancy. The intervenor was allowed to be arrayed as a party and thereafter he absent himself from the proceedings. Thus

the consequent result is delay in disposal of the suit. There is no merit in the writ petition. I am in complete agreement with the impugned order,

which is a reasonable and justified. The writ petition is accordingly, dismissed.