

(2014) 01 JH CK 0106

Jharkhand High Court

Case No: W.P. (C) No. 5223 of 2013

Kashinath Singh and Another

APPELLANT

Vs

Sabu Devi and Others

RESPONDENT

Date of Decision: Jan. 27, 2014

Citation: (2014) 2 JLR 67

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Advocate: A. Banerjee, Advocate for the Appellant

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

Narendra Nath Tiwari, J.

The petitioners have prayed for setting aside the order dated 26.7.2013 passed in Title Suit No. 43 of 2001 by learned Munsif, Bermo at Tenughat, whereby the petitioners' petition dated 30.5.2013 praying for examining formal witness, for proving document already on record, has been rejected. It has been submitted that the document, which required formal proof has been mentioned in order dated 9.1.2013 of learned court below. The record in which the said document is lying is also called for by order dated 10.1.2013 and the same is received in the court. The petitioners prayed for allowing examination of the witness only to formally prove the document for rebutting the evidence of the defendants," which was allowed at later stage. The document, which is sought to be proved is very crucial for the plaintiffs in establishing their case. Learned court below did not consider the same and has rejected the petitioners' prayer.

2. I have heard learned counsel for the petitioners and perused the record.

3. Learned court below has rejected the petitioners' prayer on the ground that they were allowed to lead evidence earlier after closure of defendants' evidence. Documents filed on their behalf were marked as exhibits. Therefore, it is not

necessary again to fix the case for adducing evidence.

4. From the petition filed before learned court below (Annexure-5), I find that no specific ground was made out for showing the necessity of the said document for the petitioners as is being taken and emphasized before this Court. Since no sufficient reason was shown in the petition for proving the document at the belated stage, learned court below held that it was not necessary to fix the case for adducing further evidence of the plaintiffs. The impugned order passed on such consideration does not appear to be erroneous, warranting interference by this Court.

5. However, if the document is important piece of evidence and crucial for the case of the plaintiffs, they may file a fresh petition before learned court below explaining the necessity of that evidence for proving their case. If such petition is filed, learned court below shall hear the parties and pass appropriate order ignoring the impugned order dated 26.7.2013.

6. If the petitioners' document is found crucial and it is already on record, learned court below in that event may give an opportunity for adducing the said evidence on such terms as to costs for compensating the defendants, but in any case shall not allow more than one date for that purpose.

7. This writ petition is, accordingly, disposed of with the aforesaid observation in order to avoid delay, this order be communicated through Fax, if the cost is deposited by the petitioners.