

(2008) 02 PAT CK 0031
In the Patna High Court
Case No : C.R. No. 1729 of 2005

Indu Devi

APPELLANT

Vs

Kamla @ Kamala Singh and Others

RESPONDENT

Date of Decision : 12-02-2008

Acts Referred:

Citation : (2008) 2 PLJR 593

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Hussain, J.—Heard learned counsel for the petitioner. No one appears on behalf of the opposite parties in spite of valid service of notice upon them. This Civil Revision has been filed on behalf the sole plaintiff-petitioner challenging order dated 21.7.2005 by which learned Subordinate Judge-I, Aurangabad, rejected his prayer for giving him opportunity to produce evidence/witness and also to cross-examine the two witnesses produced by the defendants in Title Suit No. 76 of 2001.

2. The aforesaid suit was filed by the plaintiff-petitioner for declaration of his title over the suit land and for other ancillary reliefs. Defendants appeared and contested the suit whereafter issues were framed by the learned court below on 20.8.2004 and hearing of the suit started. Subsequently, the plaintiff was directed to produce her witnesses for which several adjournments on 13.12.2004, 4.1.2005, 20.3.2005, 2.5.2005, 1.6.2005 and 3.6.2005 were granted but when she did not produce her witnesses her evidence was closed on 3.6.2005 whereafter defendants started producing their witnesses. Defendants produced two witnesses but they were not cross-examined by the plaintiff and only thereafter the plaintiff filed a petition on 20.6.2005 for allowing him to adduce evidence/witness and to cross-examine the witnesses produced by the defendants.

3. From the materials on record as well as from the impugned order it is quite apparent that admittedly the evidence of the plaintiff was closed on 3.6.2005 but no petition was ever filed for recall of the said order and even in her petition dated 20.6.2005 she did not make any such prayer. It is quite apparent that when an order regarding closing the evidence of the plaintiff has been passed, she cannot be allowed to adduce her witnesses unless the said order is recalled. In the said circumstances, I do not find any illegality in the impugned order of the learned court below and accordingly this Civil Revision is dismissed. However, the plaintiff will be at liberty to take any step and proceed in accordance with law.