

(1923) 02 PAT CK 0006
In the Patna High Court

Jagdish Pandey and Others

APPELLANT

Vs

Mt. Taibunnissa and Others

RESPONDENT

Date of Decision : 01-02-1923

Acts Referred:

Citation : AIR 1924 Patna 208

Hon'ble Judges : Ross, J

Bench : Division Bench

Judgement

Ross, J.—The only point argued in this appeal is that the Munsif was wrong in refusing to admit in evidence a letter written by Ms. Mackenzie and certain jamahandis which were tendered late. The District Judge agreed with the Munsif and held that these documents were rightly rejected.

2. That this is a ground for second appeal has been held in Talewar Singh v. Bhagwan Das 12 C.W.N. 312. It is true that it is a matter for the discretion of the Trial Court; but as was pointed in Ranchhod Hirabhai v. Secretary of State for India [1898] 22 Bom. 173, in such matters of procedure the Court should lean to an interpretation which advances justice rather than to a contrary interpretation. Now in this case these documents had been exhibited in a case under OXXI, Rule 100 between the parties to the present litigation. There was, therefore, no ground for supposing that they had been fabricated and they evidently had an important bearing on the question at issue in the trial. The Court below, in my opinion, erred in the exercise of its discretion in rejecting these documents. I, therefore, decree this appeal, set aside the decrees of the Courts below and direct that the case be remanded for retrial by the Munsif after taking in evidence the jamabandis and the letter written by Mr. Mackenzie. Costs will abide the result.