

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7030 of 2015

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Sardar Ratan Singh @ Ratan Singh & Ors

.... Petitioner/s

Versus

Rajendra Prasad & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mallika Mazumdar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 21-05-2015 After some argument, the learned counsel, Mr. Mallika Mazumdar, appearing on behalf of the petitioner submitted that by mistake, C.W.J.C. under Article 227 of the Constitution of India has been filed. In fact the part of the impugned order whereby the injunction application filed by the respondent under Order 39 Rule 1 & 2 read with Section 151 C.P.C. has been allowed is appealable under Order 43 Rule 1 Clause 'R' C.P.C., therefore, the petitioners may be permitted to withdraw this writ application with liberty to file the appeal before the appropriate forum.

Perused the order. It appears that two applications were filed, one by the petitioners and the other by the private respondents. So far the petition filed by the plaintiff petitioners under Order 23 Rule 1 CPC is concerned, on the prayer of the plaintiff-petitioner, it was adjourned and it is still pending but by

the impugned order, the application filed by the respondent under Order 39 Rule 1 & 2 C.P.C. has been allowed, therefore, in view of the provision as contained in Order 43 Rule 1 Clause 'R' C.P.C. that part of the impugned order is appealable.

In view of the above facts and submissions of the learned counsel for the petitioners, this writ application is permitted to be withdrawn with liberty to the petitioners to file appeal under the aforesaid provision before appropriate forum. Accordingly, this writ application is dismissed as withdrawn with the aforesaid liberty.

(Mungeshwar Sahoo, J)

Sanjeev/-

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