

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1041 of 2010

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Dashrath Yadav

.... Appellant/s

Versus

Basudeo Sah & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Najmul Hodda

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 23-06-2015

Heard learned counsel for the petitioner and the respondents.

In the present case, appellant is challenging the order dated 27th September 2010 passed in Misc. Case No.3 of 2010 (arising out of Case No. 2 of 2009 passed by Bihar Hindu Religious Trust Tribunal, Bihar, Patna by which the appellant's petition under order 9 Rule 13 C.P.C. has been rejected.

As the appellant in the Misc. case has filed for setting aside order passed in Cased No.2 of 2009 whereby and whereunder the appellant was declared to be trespasser over the trust property and Board directed the appellant to hand over the possession of the entire land and trees standing over the same.

In the Misc. case plea was taken that ex parte order was passed. The Tribunal has held that a proceeding under the Bihar Hindu Religious Trust Act is not a proceeding under the

Code of Civil Procedure and, as such, the provisions of Order 9 Rule 13 CPC does not apply and on that ground alone the Court held that the petition under Order 9 Rule 13 CPC is not maintainable.

This Court does not find any merit in this petition. Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

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