

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16675 of 2010

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1. Bhola Singh S/O Late Kamleshwari Singh R/O Vill.- Samho Dih, P.S.- Samho, Distt.- Begusarai, Presently Residing At Vill.- Jagan Saidpur, P.O.- Akbarpur, P.S.- Samho, Distt.- Begusarai

2. Ram Jugeshwar Singh S/O Late Kamleshwari Singh R/O Vill.- Samho Dih, P.S.- Samho, Distt.- Begusarai, Presently Residing At Vill.- Jagan Saidpur, P.O.- Akbarpur, P.S.- Samho, Distt.- Begusarai

.... Petitioner/s

Versus

1. Ram Murti Singh

2. Krishna Murti Singh

3. Dev Murti Singh

4. Vijay Murti Singh all sons of Late Ram Naresh Singh R/O Vill.- Samho, P.O.- Salha Saidpur, Barari, P.S.- Samho, Distt.- Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pushkar Narain Shahi

For the Respondent/s : Mr.Parth Sarthi

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

6 05-08-2015 Heard Mr. P.N. Shahi for the petitioners and Mr. Parth Sarthi for the respondents.

The plaintiffs of Title Suit No. 72 of 2002 and another have filed the present writ application aggrieved by the order dated 28.05.2010 passed by the Sub Judge-VI, Begusarai whereby the application filed under VII, Rule 11(d) CPC for rejection of the plaint was considered and rejected recording reasons in support thereof.

Both the parties made diverse submissions in support of their cases.

Having appreciated the relevant provisions of the Code of Civil Procedure and after some arguments, counsel for the petitioners states that the defendant(s) would contest the suit filed by the respondents herein. He, however, raised a point with respect to the observation made by the trial court in the impugned order. In his submission, the observation that Benami Transaction Prohibition Act shall not have retrospective effect may prejudice the case of the defendants. This is a matter which can be raised before the court in the light of the evidence adduced.

While permitting the application to be withdrawn, this Court observes that the aforesaid observation of the trial court in the impugned order shall not prejudice the case of the party in any manner. It will be open to the trial court to express its view on appreciation of the pleadings of the parties and evidence adduced in support thereof.

(Kishore Kumar Mandal, J)

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