

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17183 of 2010

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Hiralal Bind & Ors

.... Petitioner/s

Versus

Mithai Yadav & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 22-01-2015 The petitioners are defendants in Title Suit No.178 of 1998. The defendants-petitioners filed a petition on 7.1.2009 raising the issue of pecuniary jurisdiction. The Trial Court rejected the application of the petitioners on the ground that the evidence with respect to valuation of the suit can be led during the hearing of the case.

The plaintiffs earlier filed Title Suit No.192 of 1976 before the Court of Munsif-I, Bhabua and issue with respect to pecuniary jurisdiction was raised and the suit was declared valued at Rs.15,000/- and as such the learned Munsif who had pecuniary jurisdiction to hear the suit up to the valuation of Rs.10,000/- permitted it for being presented before the Court of Subordinate Judge. As such, the plaintiffs again presented a suit which was numbered as Title Suit No.277 of 1978. The said suit was dismissed for default on 8.2.1979. The plaintiffs thereafter



have filed the instant suit bearing Title Suit No.192 of 1996 before the Munsif-I, Bhabua. The issue of pecuniary jurisdiction was once again raised before the Court of learned Munsif. The learned Munsif vide its order dated 14.10.1999 observed that the pecuniary jurisdiction of the Court has now been enhanced to Rs.30,000/- and the cause of action is also different. Learned Munsif, however, granted liberty that the issue of pecuniary jurisdiction would be decided at the time of hearing of the case with respect to which both the parties would have equal opportunity to lead their evidence.

It appears that the aforesaid order of learned Munsif was not challenged before the higher court including this Court under its revisional jurisdiction. The defendants, however, raised the issue once again by filing a petition dated 7.1.2009, after lapse of ten years. In the petition, there is no plausible ground for explaining the delay.

This Court could have dismissed the application in view of decision of Hon'ble Apex Court reported in A.I.R. 2009 SC 264 but as learned Munsif vide its order dated 14.10.1999 has granted liberty to raise the issue of pecuniary jurisdiction at the time of hearing of the case after leading evidence on the point, I am too inclined to grant similar opportunity to the defendants-

petitioners. This writ application is, accordingly, disposed of with the aforesaid liberty.

As the suit is of the year 1996, this Court would direct the trial court to dispose of the matter on priority basis preferably within 1 ½ years from the date of receipt/production of a copy of this order.

(Samarendra Pratap Singh, J)

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