

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1616 of 2014

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Upendra Singh

.... Petitioner/s

Versus

Smt. Hazari Devi & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 10-12-2015

Heard the learned counsel for the petitioner.

It appears that the notice / summons of the suit was published in the newspaper for appearance of the defendant No.2 and according to the newspaper notice, he was to appear on 25.07.2013. After the publication of notice in newspaper, he appeared on 16.08.2013 and for that an application for service of copy of the plaint served on him so that he may be able to file the written statement. The Court below by the impugned order dated 25.09.2013 passed in Title Suit No.31 of 1995 by learned Execution Munsif, Muzaffarpur allowed the said application and directed the plaintiff to serve a copy of the plaint so that the defendant No.2 may file written statement.

The grievance of the petitioner is that he had knowledge prior to the publication of notice and, therefore, now at this stage if he is allowed to file written statement, the plaintiff will be

greatly prejudiced because the suit is of the year 1995.

Perused the order. The Court below considered this objection of the petitioner and stated that if notice had already been validly served then why the notice was published in newspaper directing him to appear on 25.7.2013. Since he has appeared after the notice through publication, he has right to file written statement and, therefore, directed the plaintiff petitioner to serve a copy of the plaint.

In view of the above facts that admittedly, the notice was published in the newspaper directing him to appear on 25.7.2013 and he has already appeared on 16.8.2013, the impugned order cannot be interfered with in supervisory jurisdiction under Article 227 of the Constitution of India. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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