

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2072 of 2014

=====

Vishwanath Prasad Gupta

.... Petitioner/s

Versus

Most. Rameshwar Devi & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ratanakar Jha

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 17-12-2015

Heard the learned counsel for the petitioner.

By the impugned order dated 24.10.2013, the learned Munsif II, Madhubani allowed the Misc. Case No.16 of 2011 and set aside the ex parte decree passed in Title Suit No.35 of 2000 recording a finding that the defendants had no knowledge about the suit.

The learned counsel for the petitioner submitted that in fact, the defendant had knowledge because he was noticed by the Court.

From perusal of the impugned order, it appears that Court below held that after going through the materials available on record, it is clear that the defendant had no knowledge about the suit and, therefore, ex parte judgment has been set aside.

The Hon'ble Supreme Court in the case of **Shalini Shyam Shetty and another v. Rajendra Shankar Patil, (2010) 8**

Supreme Court Cases 329 has held that Article 227 should be exercised by the High Court very sparingly on equitable principle. It should be remembered by the High Court that while exercising jurisdiction under Article 227, the High Court is not exercising either appellate jurisdiction or revisional jurisdiction.

In the present case, since the Court below has recorded a finding of fact that the defendant had no knowledge about the suit and, therefore, in exercise of jurisdiction under Article 227, this Court cannot reappreciate the materials available on record and record a contrary finding of fact.

Therefore, the impugned order cannot be interfered with and thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	
---	--	---	--