

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16179 of 2015

=====

Mamta Devi

.... Petitioner/s

Versus

Md. Anwarul Haque & Anr

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 02-12-2015 1. Heard the learned counsel for the petitioner.

2. The learned counsel for the petitioner submitted that in fact the petitioner who is the plaintiff in the Court below is in possession of the property of Raj Kumari Devi as Raj Kumari Devi is mother-in-law of the petitioner and she has given the possession of the land to the petitioner whereon the house of the petitioner is standing but the lower appellate Court in Misc. appeal wrongly observed at paragraph 6 that in between the land of the plaintiff and the defendants, the land of Raj kumari Devi is there and, therefore, the objection to the construction could only be made by Raj Kumari Devi and not by the petitioner and accordingly, the lower appellate Court has wrongly set aside the order passed by the trial Court. According to the learned counsel the findings of the lower appellate Court is contrary to the pleader

commissioner report.

3. In view of the submission of the learned counsel for the petitioner that the mistake committed by the Court below is apparent on the face of the record, in my opinion, the same cannot be gone in this writ application in exercise of supervisory jurisdiction. If at all it is a mistake which is apparent on the face of the record, the petitioner may approach the lower appellate Court for review of the order. So far this application under Article 227 of the Constitution is concerned, it is hereby dismissed with liberty to the petitioner to move the Court below, if so advised, by filing review application. If review application is filed, the Court below is directed to decide the same according to law without being influenced by this dismissal order.

(Mungeshwar Sahoo, J)

Sanjeev/-

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