

Party Name : AJOY KR. DAS Vs CHANCHAL KR. DAS & ORS.

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned counsel, Mr. G.K. Nama for the petitioner.

It is submitted by learned counsel, Mr. Nama for the petitioner that respondent Nos.1 and 2 instituted T.S. No.8 of 2011 as plaintiffs against the petitioner as defendant seeking declaration and recovery of possession and that suit was decreed in favour of them. The present petitioner preferred an appeal challenging the decree but the appeal was dismissed on the ground of limitation.

In the meantime, the petitioner found that those plaintiffs i.e. the respondent Nos.1 and 2 obtained the decree by practicing fraud on Court and, therefore, the petitioner as plaintiff filed T.S. No.9 of 2014 against the respondents as defendants seeking that the decree passed in T.S. No.8 of 2011 was not binding on him since it was obtained by fraud.

That suit was dismissed by the Trial Court and the petitioner preferred T.S. No.6 of 2015 in the Court of District Judge, Unakoti and the appeal is pending.

In the meantime, the respondent Nos.1 and 2 put in execution the decree passed in T.S. No.8 of 2011. The petitioner felt that if the decree is executed, this appeal pending before the District Judge will be infructuous and so, he submitted an application on 16.09.2015 in connection with Title Appeal No. 6 of 2015 before the District Judge, Unakoti to stay the execution proceeding.

Learned District Judge on the body of the petition ordered that the petition was not maintainable. No judicial order was passed on record.

Copy of that petition with the order passed by the learned District Judge in his own hand has been filed as Annexure-4. While that petition was filed in connection with a judicial proceeding pending before the Court, the District Judge would pass an appropriate order assigning reasons on record.

It is quiet inconceivable that a senior District Judge would resort to such an action of disposing a petition by writing a note on the body of the petition itself without entertaining it in due process and passing order on record. Annexure-4 of this petition clearly shows that the District Judge rejected the petition with the following note, *"Perused the petition. It is not maintainable at this stage. Hence rejected."*

No judicial discipline can support such disposal of an application filed before a Court of competent jurisdiction.

The District Judge would pass appropriate order on the petition after hearing both side in the judicial record.

Since the action of the District Judge is foreign to the procedure established by the law, I am constrained to direct the District Judge, Unakoti to entertain the petition and to pass appropriate order assigning reason after hearing both side in the judicial record.

The Revisional application accordingly stands disposed of at the motion stage itself.

Send a copy of this order to the learned District Judge, Unakoti District immediately.