

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.1732 of 2008

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1.Arbind Kumar Singh son of late Mod Narayan Singh @ Madan Singh.
2. Ranjeet Singh son of Late Basudeo Singh.
Both are resident of village Nawdiha at present Saidpur P.S. Sonpur District
Saran at Chapra.

Plaintiffs....Respondents Petitioner/s

Versus

1.Munshi Prasad Rai son of Late Suraj Rai, resident of village Alipur
Nawdiha at present Saidpur Tole, Muza Shaidpur P.S. Sonpur, District
Saran at Chapra.

.... Defendant.....Appellant Opposite Party 1st Set

2.Nand Kishore Singh, son of Late Mod Narayan Singh @ Madan Singh
resident of village Navdiha at present Saidpur, P.S. Sonpur, District Saran at
Chapra.

.....Plaintiffs.....Respondents.....Opposite Party 2nd Set (Proforma).

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Appearance :

For the Petitioner/s : Mr. Uday Shankar Singh, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

4 01-04-2016 Heard Mr. Uday Shankar Singh, learned counsel

appearing on behalf of the petitioners.

2. Nobody has appeared on behalf of the respondents
when this matter has been called out for hearing.

3. The present revision application has been filed
against the order passed by the appellate court below whereby
the order passed by the trial court rejecting the Miscellaneous
Case No. 16 of 2002 filed under Order 39 Rule 2(A) has been set
aside and the matter has been remitted back for fresh
consideration. Mr. Singh, learned counsel appearing for the



petitioners has confined his submission to the part of the impugned order whereby the appellate court below has remanded the matter back to the lower court for passing fresh order and has also directed that the said order is to be passed in the light of the aforesaid facts and provisions of law after thoroughly examining the lower court order. It has been submitted that this part of the direction would prejudice the discretion of the court below while passing fresh order as directed.

4. Nobody has appeared on behalf of the respondents as already mentioned.

5. After considering the submissions and perusal of the impugned order, this Court finds that the learned court below while remanding the matter back to the lower court for passing fresh order, has only observed that the fresh order has to be passed in the light of the aforesaid facts and provisions of law after thoroughly examining the records. There does not appear to be any specific direction that the fresh order to be passed by the lower court as directed is to be passed in accordance with the findings recorded by the appellate court. However, in order to avoid any confusion and also in the interest of justice, this revision application is disposed of with a direction to the learned

lower court to pass fresh order in accordance with law without being prejudiced by the findings or observations made by the appellate court in the order of remand.

(V. Nath, J)

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