

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.380 of 2016

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Mahanth Sheveshwar Das Chella Late Mahant Sri Narayan Das of Math Koila Kund Asthal, Village-Jagdishpur, Kharsar Tola, Koila Kund, P.S.- Hayaghat, District- Samastipur.

.... Petitioner

Versus

1. Kamlesh Prasad Singh Son of Late Bikramadity Singh, resident of Village & P.O.- Mahe, P.S. Singhiya, District- Smastipur.
2. Laliteshwar Singh S/o Late Bikramaditya Singh, resident of Village & P.O.- Mahe, P.S.- Singhiya, District- Samastipur.
3. Bishwajit Singh @ Mahanth Bishwajit Das Chella of Late Mahanth Indrajit Das resident of Village- Jagdishpur, Kharsar Tola Koila Kund, P.S- Kalyanpur, P.O- Hayaghat, District- Samastipur.
4. Sri Sita Ram Ji Presiding Deities Installed in Asthan at village- Jagdishpur, Kharsar tola, Koila Kund, P.S- Kalyanpur, P.O.- Hayaghat, District- Samastipur, represented by Mahanth Shiveshwar Das Chela Late Mahanth Sri Narayan Das.

.... Respondents

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Appearance :

For the Petitioner : Mr. Arbind Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL JUDGMENT

Date: 19-08-2016

Heard the learned counsel, Mr. Arbind Kumar Singh,
for the petitioner.

Perused the order dated 04.05.2016 passed by the Civil Judge (Senior Division-IV), Samastipur in Title Suit No. 89 of 2000 whereby the court below has held that the objection of the petitioner that the suit is not maintainable is not sustainable and directed the parties to argue the case on preliminary issue and also directed to adduce evidence, if any, so that this old case be disposed of expeditiously.

The learned counsel for the petitioner submitted that by suppressing the facts and by playing fraud on the High Court the respondents have obtained the order dated 05.05.2011 passed by the High Court in CWJC No. 12012 of 2010.

It may be mentioned here that so far the question of fraud is concerned, it is a pure question of fact. Admittedly, this Court has remanded the matter to the Court concerned for deciding the mater regarding maintainability of the suit. By the impugned order the Court below has directed the parties to argue the case.

In the aforesaid facts and circumstances, I do not find any reason to interfere in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Thus, this Civil Miscellaneous Application is dismissed.

(Mungeshwar Sahoo, J)

S.Pandey/-

AFR/NAFR	
CAV DATE	
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