

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1511 of 2016

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1. Sita Kuar @ Sita Devi W/o Late Kashi Nath Tiwari resident of Village - Kharkhariya, P.S. - Guthani Pargana Chaubar, District - Siwan.
 2. Bindu Tiwari W/o Late Satish Kumar Tiwari resident of Village - Kharkhariya, P.S. - Guthani Pargana Chaubar, District - Siwan.
 3. Aditya Kumar Tiwari minor son of Late Satish Kumar Tiwari resident of Village - Kharkhariya, P.S. - Guthani Pargana Chaubar, District - Siwan.

.... Appellant/s

Versus

1. Smt. Bimla Mishra W/o Harish Mishra resident of Village - Ugrasen Chara, P.S. - Levri, P.S. - Mairwa, District - Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 22-12-2016

Heard learned counsel for the petitioners.

Perused the impugned order dated 08.09.2016 passed by Sub- Judge-1st, Siwan, in Miscellaneous Case No.26 of 2011 whereby the learned court below allowed miscellaneous case filed under Order 9, Rule 13 CPC and set aside the ex parte judgment and decree.

From perusal of the impugned order dated 08.09,2016 it appears that both the parties appeared in the court below and both the parties adduced the evidences in support of their cases. The court below after appreciation of the evidences recorded given a clear finding that the summons were served



validly and accordingly allowed the miscellaneous case. The only grievance of the present petitioner is that in Miscellaneous Case No. 26 of 2011 no notice was served on the petitioner and, in fact, some body impersonated her and executed the Vakalatnama on her behalf i.e. Sita Kuar and got the ex parte decree set aside.

So far submission of the learned counsel that the petitioner never executed Vakalatnama or that some body impersonated her and executed Vakalatnama on behalf of the petitioner cannot be a subject matter of an application under Article 227 of the Constitution of India. This Court cannot investigate the disputed question of fact.

In the impugned order itself it is clearly held that both the parties have appeared and on appearance both the parties have adduced their evidences. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction of this Court..

Thus, this miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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