

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1305 of 2016

=====

Rakesh Kumar

.... Petitioner/s

Versus

Bajaj Auto Ltd. & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 18-02-2016

Heard the learned counsel, Mr. J.K.Verma for the petitioner and learned senior counsel, Mr. Chitranjan Sinha for the respondents.

By the impugned order dated 25.11.2015, the District Judge, Begusarai in Misc. Appeal No.7 of 2014 set aside the order of injunction passed by the trial court dated 19.08.2013 passed in Title Suit No.464 of 2013 and remanded the matter to the trial court for passing a fresh order on the injunction application.

The learned counsels for both the parties argued the matter at great length and also cited many decisions. However, it is admitted fact that the suit was filed for permanent injunction restraining the respondents from terminating the dealership of the petitioner and also for appointing another dealer. Further admitted fact is that the petitioner's dealership has already been terminated and further, that another dealer has already been appointed. The

lower appellate Court has only remanded the matter after setting aside the injunction order passed by the trial court. Further, the suit has been transferred to Civil Court, Delhi.

It is settled principles of law that in cases where the High Court exercised its jurisdiction under Article 227 of the Constitution of India, such exercise is entirely discretionary and no person can claim it as a matter of right for interference in the impugned order. Reference may be made in this regard to the decision of the Hon'ble Supreme Court in **(2010) 8 Supreme Court Cases 329**.

Again, the Hon'ble Supreme Court in **(2010) 9 Supreme Court Cases 385** has held that "the supervisory jurisdiction under Article 227 cannot be exercised like a "bull in a china shop" to correct all errors of judgment of court or tribunal acting within the limits of its jurisdiction. This correctional jurisdiction can be exercised in cases where orders have been passed on grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice."

The Hon'ble Supreme Court again in the case of **Kokkanda B. Poondacha & Ors. K.D.Ganapathi & Anr., 2011(3) PLJR 46(SC)** has held that "the supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the

Subordinate Courts within the bounds of their jurisdiction. When the Subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law.”

In view of the above settled proposition of law laid down by the Supreme Court, in the present case, since the matter has only been remanded to the trial court for passing a fresh order after hearing the parties on injunction application, I hereby refrain from interfering the impugned order in exercise of supervisory jurisdiction under Article 227 of the Constitution.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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