

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3007 of 2016

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Pradeep Kummur Sah @ Gupta

.... Petitioner/s

Versus

Dilip Kumar Sah @ Deepak & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Shashi Shekhar Kishore

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 15-07-2016

Heard learned counsel for the petitioner.

Eviction suit was filed by the plaintiff respondent against the petitioner. The said suit was decreed ex.-parte as the petitioner after appearance in the Court below did not contest the same. Thereafter, application under Order 9 Rule 13 CPC was filed for setting aside the Judgment and Decree on the ground because of illness, he could not appear and contest the suit. It was objected by the plaintiff respondent. The trial Court in Misc. Case No.1 of 2010 registered on the basis of the application under Order 9 Rule 13 disbelieved the ground of the petitioner that he stopped doing pairvi, it was stated by the plaintiff before him who is own brother of the petitioner that the case is very weak and it shall be dismissed. Therefore, the trial Court rejected the Misc. case. Misc. appeal was filed before the lower appellate Court. The lower appellate Court considered these matters and then by the

impugned order has dismissed the Misc. Appeal.

From perusal of the orders, I find that reasoned orders have been passed by both the Court's below. In no case it can be said that the orders have been passed without following the procedure or that the orders have been passed in the manner not permitted by law. In such view of the matter when both the Courts below concurrently disbelieved the petitioner's case that on the statement of the plaintiff to the effect that the case is very weak and it will be dismissed he left pairvi, this Court in exercise of supervisory jurisdiction cannot rely the said statement with a view to supervise the orders passed by the Courts below.

Thus, I find no reason to interfere with impugned orders and accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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