

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7264 of 2012

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Mostt.Ganeshiya & Ors

.... Petitioner/s

Versus

Mostt.Gautami & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Poonam Kumari-Advocate

For the Respondent/s : Mr. Chandra Kant-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

04 03-02-2016

Heard learned counsel for the petitioners as well as
learned counsel for the respondents.

Instant petition suffers from some sort of deficiency
in the background of the fact that from the order impugned dated
21.12.2009 passed by the Additional District Judge, Fast Track
Court No.-1st, Siwan relating to Title Appeal No.48 of 1993, it is
evident that petition dated 16.03.2009 was filed by Birendra
Kurmi appellant no.2/ petitioner no.2 only while instant petition
does contain presence of Mostt. Ganeshiya as well as Surendra
Kumari as petitioners including that of Birendra Kurmi.
Furthermore, it is evident that respondent no.1/ plaintiff Mostt.
Gautami has compromised the case with Birendra Kurmi only and
that being so, these two petitioners have nothing to say in between
as the same happens to be event of partial compromise.

So far recall of plaintiff is concerned, that certainly

cannot be permitted in the background of nature of prayer. Moreover, the event of compromise, the petition of compromise, in case supported by the respective parties is to be accepted in terms of Order-XXXII of the C.P.C.

That being so, there is no necessity for recalling the plaintiff whereupon instant petition is found non-tenable in the eye of law and is accordingly, rejected.

(Aditya Kumar Trivedi, J)

Vikash/-

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