

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4885 of 2014

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Raghubir Mahto (Singh)

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Shankar Prasad Yadav

For the Respondent/s : Mr. Gp-32 Harish Kumar

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 29-01-2016

It appears that the State of Bihar has wrongly been made party in the this application under Article 227 of the Constitution of India.

Heard learned counsel, Mr. S.S.P. Yadav, appearing for the petitioner.

The petitioner has filed this application, under Article 227 of the Constitution of India, for setting aside the order dated 20.12.2013 passed by the Sub-Judge- 1st, Chapra Saran in Miscellaneous Case No. 10 of 1995, wherein the court below refused to send the signature of O.P.W.-10 to the expert for obtaining opinion.

From perusal of the impugned order, it appears that earlier same application was filed in the year 2004 and the court below by terms of the order dated 18.09.2004 had rejected the said application. Thereafter again application was filed on 07.05.2005



for the same relief and the petitioner prayed for comparison of signature of Sirajuddin on exhibit-1 with that of signature of O.P.W.-10. The court below held that since the earlier order has not been challenged, which has attained its finality, the same prayer cannot be allowed now. It may be mentioned here that the title suit was filed and in the title suit, the parties contested and judgment and decree was passed in favour of the petitioner herein. After disposal of the title suit, this application has been filed by the petitioner for proceeding against the respondents under Section 340 of the Cr.P.C. the application has been registered as Miscellaneous Case No. 10 of 1995 and till today, the same is pending on one ground or the other.

Considering the facts and circumstances of the case, the order passed by the court below on the ground that since earlier the prayer has already been refused in the year 2004, in my opinion, the order needs no interference in supervisory jurisdiction under Article 227 of the Constitution of India. Thus this writ application is dismissed.

(Mungeshwar Sahoo, J)

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