

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13294 of 2013

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1. Smt. Shiv Kali Devi Wife Of Nathuni Mahto Resident Of Village- Siswa
Maldahiya, P.O.- Siswa, P.S.- Paharpur, Dist- East Champaran

.... Petitioner/s

Versus

1. Lalita Devi Wife Of Bharat Prasad, Resident Of Village- Noniya Tola, Mahto
Tola, P.O.- Noniya, P.S.- Paharpur, Dist- East Champaran

2. Ram Kali Devi Wife Of Late Ramchandra Prasad, Resident Of Village- Noniya
Mahto Tola, P.O.- Noniya, P.S.- Paharpur, Dist- East Champaran

3. Bharat Prasad Son Of Domo Prasad Resident Of Village- Noniya Tola, P.S.-
Paharpur, Dist- East Champaran, At Present Resident Of Village- Siswa Maldahiya,
P.O.- Siswa Bazar, P.S.- Paharpur, Dist- East Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAJESH KUMAR, ADV
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 22-11-2016

Heard Mr. Ranjan Kumar Dubey, learned counsel for
the petitioner.

By the impugned order the learned court below has
allowed the prayer of the Defendant No. 2 and has accepted the
fresh written statement filed by her upholding her plea that she had
never filed the written statement said to have been filed by her
alongwith the Defendant No. 3.



The petitioner is defendant no. 1 in the suit.

Learned counsel for the petitioner has submitted that earlier in the written statement which was filed by the Defendant No. 2 jointly with Defendant No. 3 the assertions were made in support of the plaintiff but by filing the fresh written statement which has been accepted by the learned court below by the impugned order the assertions have been made only against the Defendant No. 1. It has, therefore, been contended that the learned court below has committed error in law in allowing the prayer of the Defendant No. 2 for ignoring the previous written statement filed by her and accepting her fresh written statement.

After considering the submissions and perusal of the impugned order as well as the materials on record, it is pellucid that in the fresh written statement the Defendant No. 2 has made allegations only against the Defendant No. 1. Learned counsel for the petitioner has submitted that no allegation either in support or against the plaintiff has been made in the fresh written statement. It is seemly to notice that in such circumstances the inter se dispute between Defendant No. 1 and Defendant No. 2 cannot be the subject matter of the suit as filed by the plaintiff. The learned court below has passed the impugned order by considering the facts and circumstances of the case. This Court, therefore, is not inclined to



invoke its jurisdiction under Article 227 of the Constitution of India for interdicting the same.

The application is, accordingly, dismissed.

The petitioner shall have the liberty to raise objection under Section 105 C.P.C if such occasion arises.

At this juncture the learned counsel for the petitioner has submitted that the petitioner is ready to co-operate with the court for early disposal of the suit which has been filed in the year 2010. The learned Court below is accordingly directed to take up the hearing of the suit and dispose it of expeditiously.

(V. Nath, J)

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