

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6917 of 2016

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Ashok Kumar Mahton & Anr

.... Petitioner/s

Versus

Shri Kiro Das & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Pandey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 29-07-2016

Heard learned counsel Mr. Jitendra Kumar Pandey for
the petitioners.

It appears that by the impugned order dated 16.01.2016
the learned Subordinate Judge, Rosera allowed Miscellaneous
Case No.04 of 2013 filed by the respondents under Order 33 of the
Code of Civil Procedure for obtaining leave to sue as indigent
person on the ground that he is unable to pay court fee of
Rs.4,520/-. On the basis of applications filed by the plaintiffs-
respondents the court below found that in fact they are indigent
persons and has allowed the miscellaneous case and the suit was
registered as Title Suit No.412 of 2013.

The Hon'ble Supreme Court in **A.I.R. 1961 Supreme
Court 1299 (Sri Rathnavarmaraja v. Smt. Vimla)** has held that
the Act provides that for the purpose of deciding whether the
subject matter of the suit or other proceeding has been properly



valued or whether the fee paid is sufficient, the Court may hold such enquiry as it considers proper and issue a commission to any other person directing him to make such local or other investigation as may be necessary and report thereon. The anxiety of the legislature to collect court fee due from the litigant is manifest from the detailed provisions made in Chapter III of the Court Fee and Suit Valuation Act but those provisions do not arm the defendant with a weapon of technicality to obstruct the progress of the suit by approaching the High Court in revision against an order determining the court fee payable.

The Supreme Court observed that in our view the High Court grievously erred in entertaining revision application on questions of court fee at the instance of the defendant when no question of jurisdiction was involved. Therefore, there is no question of prejudice to the petitioner arises. In my opinion, therefore, it is not a case for interference in supervisory jurisdiction. Thus, this writ application is dismissed.

Harish/-

(Mungeshwar Sahoo, J)

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