

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.15 of 2016**

Abdul Khalique

.... Appellant/s

Versus

Md. Asfaquddin & Ors

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Ved Prakash Srivastva

For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 01-08-2016

Heard learned Senior Counsel, Mr. M.N. Parbat,

appearing for the petitioner and learned counsel, Mr. Anisur Rahman for defendant-respondents, who are appellants in miscellaneous appeal before the lower appellate court.

2. By the impugned order dated 27.02.2016, the learned District and Sessions Judge, VIth, Vaishali at Hajipur directed deletion of name of respondent Nos. 2 to 15 in Miscellaneous Appeal No. 05 of 2015 arising out of the injunction order.

3. It appears that injunction application was filed by respondent Nos. 1 and 2 only praying for restraining the plaintiff, who is petitioner herein. This application for injunction has been rejected. Against the said order, the miscellaneous appeal has been filed, wherein the present petitioner is respondent No.1 and other defendants of the suit are arrayed as respondent Nos. 2 to 15.

4. Admittedly, the respondent Nos. 1 and 2 are praying

for injunction restraining the plaintiff, who is petitioner herein only. No relief has been claimed against the other respondent Nos. 2 to 15, who are defendants in the suit.

5. In such view of the matter, the appellate court after consideration of Order 41 Rule 14(A) of the Patna High Court Amendment should have dispensed with the service of notice on them but instead of dispensing with the service of notice on them has directed to delete the names of the said respondents. However, it is being held that names of said respondents should not be deleted but considering the fact that the appellants of miscellaneous appeal are praying for injunction against the plaintiff only, no notice in miscellaneous appeal be issued to respondent Nos. 2 to 15. In other words, hearing of the appeal would not await service of notice on respondent Nos. 2 to 15. Thus, this civil miscellaneous application is allowed in part and the impugned order is modified in part to that extent.

(Mungeshwar Sahoo, J)

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