

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.317 of 2016

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Jag Bhgwan Chaudhary & Anr

.... Appellant/s

Versus

Birendra Kumar Singh

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ras Bihari Thakur

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 17-08-2016

Heard learned counsel Mr. Ras Bihari Thakur for the
petitioners.

Perused the order dated 19.04.2016 passed by learned
Subordinate Judge, Piro, Bhojpur in Title Suit No.650 of 2012.

It appears that the said suit was filed by the plaintiff-
respondent for partition of the suit property. The defendants
appeared and filed application for dismissing the suit on the
ground that the suit is not maintainable as the plaintiff has got no
title over the property. Inter Council is not a constitutional body
and Birendra Kumar Singh is not the Principal of the College. He
has got no locus standi to file the suit as Principal. The name of
the college is Brahmarshi Sahjanand Sarswati Mahavidyalaya,
Bachari and not Brahmarshi Sahjanand Sarswati Snatak
Mahavidyalaya, Bachari.

The court below by the impugned order held that the

questions raised by the petitioners are not pure questions of law, hence, the issue cannot be decided as preliminary issue. Under Order 14 Rule 2 CPC the question of law can only be decided as preliminary issue.

Considering the fact considered by the court below in the impugned order, I find that the points, which are being raised by the petitioners, are all questions of fact and depend on the evidences. Therefore, the learned court below has rightly held that the questions, which are not pure questions of law, cannot be decided as preliminary issue. I, therefore, find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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