

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8275 of 2012

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1. Satya Narain Gadodiya @ Satya Narain Pd. Gadodiya son of Late Bhura Mall Gadodiya
 2. Man Mohan Kumar Gadodiya, son of Saiya Narain Gadodiya both resident of Mohall-Misscot, P.S. Motihari Town, district East Champaran

....Appellants-Petitioner/s

Versus

1. Pawan Kumar Gadodiya, son of Saya Narain Gadodiya, resident of Mohalla-Misscot, P.S. Motihari, Town and district East Champaran
2. Ram Pukar Singh son of Late Ram Swarup Singh
3. Raghvendra Kumar Singh son of Ram Pukar Singh residents of Mohalla Misscot, P.S. Motihari, Town and district East Champaran
4. Smt. Parit Meena Devi wife of Lakhindra Parit
5. Lakhindra Parit son of Harish Chandra Parit both residents of Mohalla-Misscot, P.S. Motihari, Town and district East Champaran

... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 12-01-2016 The petitioners are the appellants of Title Appeal No. 11 of 1994. They are aggrieved by the order dated 23.01.2010 passed by the Addl. District Judge, VI, Motihari, East Champaran in the said appeal. By the said order, the application of the petitioners filed under Order 41, Rule 27 CPC, on contest, was rejected. Through the said application, the plaintiffs prayed for permitting them to produce additional evidence. It was stated that a compromise was entered between the respondent nos. 4 and 5 with the appellants which requires to be produced as additional evidence for consideration of the court. The appellate court having considered the submissions of both the party declined the said relief observing that such permission was not likely to result in final termination of the appeal as per the compromise. All parties thereto were not the signatories of the

compromise. Further, it has been noted that the application does not qualify to be allowed in view of the provision contained in the Order 41, Rule 27 CPC. It was not a case where the trial court had refused to admit the evidence. It was also not a case where the party seeking to produce additional evidence demonstrates that notwithstanding the exercise of due diligence such evidence was not within his knowledge. In fact, the case of the plaintiffs-appellants was that subsequent to the decree passed by the trial court a compromise was entered between the plaintiffs and some of the defendants outside the court.

In exercise of power under Article 227 of the Constitution of India the Court is not required to correct each and every mistake/error until it is demonstrably shown that serious prejudice shall be caused to the party or the order is wholly perverse. The appeal is pending disposal on the file of the appellate court since 1994.

Judging the case as above, this Court finds no merit in this writ application. It is accordingly dismissed.

(Kishore Kumar Mandal, J)

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