

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10893 of 2015

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Most. Shanti Devi & Ors

.... Petitioners

Versus

Smt. Rajpatiya Devi & Anr

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 08-03-2016

Heard the learned counsel Mr. Shivendra Kumar Sinha

for the petitioner.

The learned Munsif-I, Patna by order dated 30.04.2015 allowed the Miscellaneous Case No. 08 of 2011 and restored the Title Suit No. 03 of 2006 after setting aside ex parte decree.

It appears that the suit was filed by the plaintiff-petitioner being Title Suit No. 03 of 2006. It was decreed ex parte. Thereafter, the defendants filed an application under Order 9 Rule 13 of the C.P.C. which was registered as Miscellaneous Case No. 08 of 2011. The plea taken by the defendants is that they have no knowledge about the pendency of the title suit as no summons were issued on them. Both the parties adduced their evidences. The trial court on the basis of the appreciation of the evidences brought on record recorded a clear finding that it is clear that the defendants had no notice and no knowledge of the

pendency of the suit and therefore, they had sufficient cause for not filing the application under Order 9 Rule 13 of the C.P.C within time accordingly, allowed the miscellaneous case.

In view of the above facts and circumstances on the basis of the evidences, this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India cannot substitute its own finding of fact after re-appreciation of evidence.

Thus, this application is dismissed.

(Mungeshwar Sahoo, J.)

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