

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5668 of 2013

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1. Deepak Kumar Choudhary Son Of Subash Choudhary Resident Of
 Village- Hathiyakand Sarai, P.S.- Maner, District- Patna
 2. Raj Kumar Choudhary Son Of Subash Choudhary Resident Of Village-
 Hathiyakand Sarai, P.S.- Maner, District- Patna

.... Petitioner/s

Versus

1. Naresh Prasad S/O Late Murat Prasad Resident Of Village Hathiyakand
 Sarai, P.S.- Maner, District- Patna
 2. Subash Choudhary S/O Late Bhowchand Choudhary Resident Of
 Village- Hathiyakand Sarai, P.S.- Maner, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Bhushan Sinha, Advocate
 For the Respondent No.1 : Mr. Satyendra Pandey, Advocate
 For the Respondent No.2 : Mr. Baban Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 11-03-2016 Heard learned counsel for the petitioners as well as
 learned counsel for the respondents no.1 and 2.

The suit for Specific Performance of Contract Act has
 been launched at the end of Respondent No.1 against Respondent
 No.2 who happens to be father of petitioners, bearing Title Suit
 No. 127/09 wherein apart from others, relief no.3 discloses “ That
 in case, the court be unable to grant the above reliefs then a decree
 for sum of Rs. 40,000/- forty thousand) with interest @ 12% per
 annum be passed in favour of plaintiff against the defendant”,
 which is found maintainable in terms of Section 20 of The
 Specific Relief Act, 1963.

At the present moment, learned counsel for the

Respondent No.2 has submitted that he is ready to return back the amount along with interest so identified by the nationalized bank within eight weeks in order to avoid litigation.

That being so, without advertting to adjudge the order impugned, the learned lower court is directed to take proper steps in light of admission at the end of Respondent No.2/sole defendant before the learned lower court coupled with the relief so sought for at the end of Respondent no.1/plaintiff which learned counsel for Respondent no.1/plaintiff also endorsed.

The instant petition is disposed of in terms thereof.

(Aditya Kumar Trivedi, J)

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