

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1033 of 2014

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Rajendra Singh

.... Petitioner/s

Versus

Mahendra Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 11-01-2016

Heard the learned counsel for the petitioner as well the
learned counsel for the respondents.

By the impugned order dated 24.10.2013 passed by Sub
Judge IV, Patna City, the application filed by the petitioner under
Order 7 rule 11(D) C.P.C. has been rejected which was filed in
Title Partition Suit No.257 of 2011.

The only grievance of the petitioner is that earlier the
plaintiff-respondent has filed Title (Partition) Suit No.88 of 1989
which was dismissed for default in the year 2009. Therefore, the
plaintiff's present suit is barred under Order 9 Rule 9 C.P.C.

From perusal of the order, it appears that Court below
has rejected the said application. The only grievance of the
petitioner is that for the same cause of action, the present plaintiff-
respondent could not have brought another suit being Title
(Partition) Suit No.257 of 2011.

It is settled principles of law that the cause of action for partition suit is recurring cause of action, therefore, there is no question of same cause of action arises.

In such view of the matter, the Court below has rightly rejected the application, as such, the same cannot be interfered with in supervisory jurisdiction.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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