

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.333 of 2015

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Surendra Prasad & Anr

.... Petitioner/s

Versus

Anant Kumar Singh

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Khatim Reza

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 29-02-2016

Heard the learned counsel, Mr. Khatim Reza for the petitioners.

By the impugned order dated 26.08.2014, the learned Munsif, Biharsharif, Nalanda rejected the application filed by the petitioner under Section 10 of the C.P.C. for staying further proceeding of the Eviction Suit No.10 of 2010 during the pendency of Title Suit No.101 of 1999.

It is admitted fact that the petitioner is a tenant according to the plaintiff of Eviction Suit No.10 of 2010. The tenant is claiming that the plaintiff is not his landlord rather he has purchased the property during the pendency of Title Suit No.101 of 1999 from one of the defendants of Title Suit No.101 of 1999 and, therefore, his title itself in question in Title Suit No.101 of 1999. It is now admitted fact that the issue involved in title suit is with regard to the question of title between the parites and in that

suit the present defendant who is tenant is not party. The issue involved in the present eviction suit is whether there is relationship of landlord and tenant between the parties and whether the plaintiff has been able to prove the ground on which the eviction is sought for. These issues are not involved in the earlier suit.

The Hon'ble Supreme Court in the case of **National Institute of Mental Health and Neuro Sciences, Appellant v. C. Parameshwara, AIR 2005 Supreme Court 242** has held that "the object of S. 10 is to prevent Courts of concurrent jurisdiction from simultaneously trying two parallel suits between the same parties in respect of the same matter in issue. The fundamental test to attract S. 10 is, whether on final decision being reached in the previous suit, such decision would operate as res judicata in the subsequent suit."

In view of the above settled proposition of law, the Court below has rightly rejected the application.

Thus, no case for supervisory jurisdiction is made out and accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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