

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9109 of 2014

1. Pandey Kapileshwar Kumar Son of Late Pandey Rewati Raman Prasad Resident of Village - Padhauti, P.S. Bhagwanpur, District - Kaimur at Bhabhua

.... Petitioner/s

Versus

- 1. Pandey Mritunjay Prasad Son of Late Pandey Rewati Raman Prasad
- 2. Ajit Kumar Son of Pandey Mritunjay Prasad
- 3. Rahul Kumar Son of Pandey Mritunjay Prasad All Resident of Village - Padhauti, P.S. Bhagwanpur, District - Kaimur at Bhabhua
- 4. Sandhya Srivastava wife of Late Sanjay Kumar, Son of Late Pandey Rewati Raman Prasad
- 5. Amit Kumar Son of Pandey Kapileshwar Kumar
- 6. Rakesh Kumar Son of Pandey Kapileshwar Kumar
- 7. Smt. Kastura Devi Wife of Pandey Rewati Raman Prasad
- 8. Punam Srivastava Daughter of Late Pandey Rewati Raman Prasad Wife of Sri Rajesh Kumar Srivastava Resident of Village - Padhauti, P.S. Bhagwanpur, District - Kaimur at Bhabhua at present address Village - Biur, Manpur, P.S. Chainpur, District - Kaimur at Bhabhua
- 9. Pratima Devi Daughter of Late Pandey Rewati Raman Prasad Wife of Abhishek Srivastava resident of Village - Padhauti, P.S. Bhagwanpur, District - Kaimur at Bhabhua, at present address - Dhapari, P.S. Alinagar, District - Chandauli, Uttar Pradesh All Resident of Village - Padhauti, P.S. Bhagwanpur, District - Kaimur at Bhabhua

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey, Adv
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 03-05-2016

Heard learned counsel for the petitioner.

2. In the present application filed under Article 227 of the Constitution of India the petitioner has challenged the order dated 26.08.2009 and also the order dated 22.02.2014 passed in T.S. No. 26 of 2004.

3. The defendant no. 1 in the aforesaid suit is the petitioner in this application. Initially the learned counsel for the petitioner has submitted that both the aforesaid orders are co-related and therefore, the present application assailing the order dated 26.08.2009 filed on 14.05.2014 is maintainable. However during the course of submission it has transpired that the order dated 26.08.2009 has earlier been challenged by the petitioner by filing civil revision application before this Court which according to the learned counsel for the petitioner was permitted to be converted into an application under Article 227 of the Constitution of India. However, it has also been further accepted by the learned counsel for the petitioner that the said petition after conversion, later on stood dismissed for default. There is no averment in the present application regarding these facts and during the course of submission also it has been

accepted that no step for restoration of the said application had been taken by the petitioner. In this view of the matter, this Court is not inclined to entertain this application against the order dated 26.08.2009.

4. So far as the assail to another order dated 22.02.2014, it transpires that the petition dated 15.05.2013 (Annexure-5) was filed in the court below on behalf of the present petitioner in which the prayer was made to dispose of the suit on the basis of the compromise dated 25.08.2011 and also on the basis of the evidence adduced on behalf of the plaintiff on 07.12.2011. During the course of submission on behalf of the petitioner however it could not be pointed out that the aforesaid compromise was accepted by the plaintiff or other parties in the suit. To the contrary it is limpid from the impugned order that the plaintiff has taken a categorical stand to reject the compromise dated 25.08.2011. In the backdrop of these facts, the learned court below has turned down the prayer made by the petitioner in his petition dated 15.05.2013(Annexure-5) to dispose of the suit in terms of the compromise.

5. After considering the submissions and facts, this court does not find any scope for interference in the impugned order

dated 22.02.2014 by exercising jurisdiction under Article 227 of the Constitution of India.

6. The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	23.05.2016
Transmission Date	N.A.