

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.595 of 2016

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Jadu Mahto

.... Appellant/s

Versus

Most.sampati Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Kant Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 19-09-2016 Heard the learned counsel, Mr. Krishna Kant Singh, for the petitioner.

Perused the impugned order dated 27.05.2016 passed by Sub Judge-VIII, Motihari, East Champaran in Misc. Case No.25 of 2013 whereby the Court below rejected the application by the petitioner for rejecting the Order 9 Rule 13 application as not maintainable.

It appear that Title Suit No.94 of 2005 was filed by the plaintiff respondent. The said suit was decreed. Some of the defendants who contested the suit filed appeal being Title Appeal No.36 of 2013. Some defendant respondent No.1 to 3 filed application under Order 9 Rule 13 CPC alleging that in fact the forged Vakalatnama was filed on their behalf in the suit, and, therefore, they had no knowledge about the said pendency of the suit and also the Judgment and Decree, as such Order 9 Rule 13

CPC was filed. The petitioner filed application for rejection of the said Misc. Case No.25 of 2013 arising out of application under Order 9 Rule 13 CPC as not maintainable. The learned Court below by the impugned order has held that the question raised by the petitioners of Misc. Case can be decided only after the evidences are produced and, therefore, at this stage, it cannot be said the application under Order 9 Rule 13 CPC is not maintainable.

In view of the above factual position that when the petitioners who are respondent No.1 to 3 have filed the application alleging that the Vakalatnama on their behalf itself was forged, this is a question to be decided in this proceeding. In such circumstances, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Thus, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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