

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10713 of 2014

1. Ram Avtar Mahto Son of Late Nanda Mahto Resident of Mohalla - Nasriganj, Beltar, Pathantoli, P.O. - Digha, P.S. - Danapur, Dist - Patna and present residing at block D-3, Shiv Durga Vihar, Lekarpur, Faridabad, Haryana near Radha Krishna Mandir, P.O. - Faridabad, Haryana.

.... Petitioner/s

Versus

1. Tarkeshwar Prasad Mahto Son of Dev Narain Mahto Resident of Mohalla - Nasriganj (west of Devi Sthan), P.O. - Digha, P.S. - Danapur, Dist - Patna.

2. Ajit Kumar Son of Ram Avtar Mahto Resident of Mohalla - Nasriganj, Beltar, Pathantoli, P.O. - Digha, P.S. - Danapur, Dist - Patna and present residing at block D-3, Shiv Durga Vihar, Lekarpur, Faridabad, Haryana near Radha Krishna Mandir, P.O. - Faridabad, Haryana.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Tej Kumar Maharaj, Adv
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 05-07-2016

Heard learned counsel for the petitioner.

2. It has been pointed out that after passing of the ex parte decree for specific performance against the petitioner, the execution case has been filed by the plaintiff-respondent whereas the defendant petitioner has filed petition under Order 9 Rule 13 of C.P.C to set aside the ex parte judgment and decree passed in the suit for specific performance.



3. Learned counsel for the petitioner has submitted that a limited prayer has been made in this application to direct the learned court below to first dispose of the miscellaneous case filed under Order 9 Rule 13 C.P.C and thereafter to proceed with the execution case.

4. This Court, however, finds that no such prayer has been made by the petitioner either in the miscellaneous case or in the execution case. In that view of the matter, this Court does not find any reason to invoke its jurisdiction under Article 227 of the Constitution of India in the matter.

5. The application is, accordingly, dismissed.

6. The petitioner however shall be at liberty to take recourse to the remedy available to him in accordance with law.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
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