

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10234 of 2013

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1. Chandradeo Prasad S/O Late Bangali Prasad R/O Arwal, District-
Jehanabad, At Present Residing At Mohalla- Panch Mohala, P.S.-
Jehanabad, District- Jehanabad

.... Petitioner/s

Versus

1. Umesh Prasad Keshari S/O Durga Prasad Keshari R/O Mohalla- Maudavi
(Panch Mohalla), P.S.- Jehanabad, District- Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Sinha, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 23-09-2016

Heard learned counsel for the petitioner.

First Appeal is supposed to be in continuity with the original suit. Points having been raised on behalf of appellant happen to be legal points and for that, in terms of Order VI Rule 13 of the CPC, parties are not expected to plead thereof. Apart from this, under Order XLI Rule 3 of the CPC, though the provision is there for amendment/adding of new grounds in the memorandum of appeal but, the same has not been found hindrance in exercising the appellate power by the Court hearing the appeal confined to the grounds only whatsoever had been taken in the memorandum of appeal rather other grounds should also be taken note of, whereupon, both the parties would be entitled to address.

The order impugned also speaks with regard to such liberty and on account thereof, petitioner should not feel prejudiced. Irrespective of rejection having been at the end of appellate court, petitioner will be at a liberty to raise those points during course of argument which the learned lower court will consider after hearing the respondents on that very score.

With the aforesaid observation, the instant petition is disposed of.

(Aditya Kumar Trivedi, J)

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