

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10296 of 2014

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1. Onkarnath Sinha @ Unkarnath Sinha @ Unkar Singh Son of Late Krishnadeo Singh
2. Rajnandane Devi @ Rajandan Devi Widow of Late Krishnadeo Singh
Both resident of village - Kachana, Police Station Chandee (Bena) District - Nalanda

.... Petitioners

Versus

Niranar Nath Sinha @ Nirakar Nath Sinha @ Nirankar Singh, Son of Late Krishnadeo Singh resident of village - Kachana, Police Station Chandi (Bena) District - Nalanda

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Uday Shankar Sharan Singh, Adv.

For the Respondent/s : Mr. Sanjay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

2 27-06-2016 Heard Mr. Uday Shankar Sharan Singh, learned
counsel for the petitioners.

The learned counsel for the defendant-respondent
is present.

The present application has been filed against the
order by which the learned court below has accepted the written
statement filed on behalf of the defendant in the suit for partition.

Mr.Singh, learned counsel for the petitioners has
submitted that the learned court below has acted with material
irregularity in accepting the written statement which has been filed
after lapse of 90 days as prescribed under Order 8
Rule 1 without extending the said time and also without assigning

any reason.

After considering the submissions and the materials on record, it is transparent that by the impugned order the learned court below has only accepted the written statement filed by the defendant which would result in the disposal of the suit on merit. It does not appear that the learned court below has not considered the submissions made on behalf of the petitioners in this regard as well as the respondents. It is now well settled that provision under Order 8 Rule 1 is not mandatory but directory in nature. This Court therefore is not inclined to exercise the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

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