

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.114 of 2013

1. Raja Ram Prasad Gupta Son Of Late Jaggi Sah, Resident Of Village- Chakiya,
P.O. And P.S. Chakiya, District- East Champaran, Motihari

....Defendant Petitioner/s

Versus

1. Uma Shankar Tulsiyan Son Of Late Ramautar Tulsiyan, Resident Of Village-
Chakiya, P.O. And P.S. Chakiya, District- East Champaran, Motihari.

....Plaintiff Opposite Party

Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv & Mr. Vikas Ratan Bharati, Adv
For the Respondent/s : Mr. Uma Kant Shukla, Adv

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-06-2016

Heard learned counsel for the petitioner and learned
counsel for the other side.

2. The present civil revision application has been filed
questioning the legal sustainability of the order dated 19.12.2012
passed in Title Suit No. 728 of 2012, whereby the petition filed by
the defendant-petitioner in the suit under Order 14 Rule 2 of the
C.P.C has been dismissed. The learned counsel for the petitioner has
submitted that after having been defeated in the proceeding under
Bihar Land Dispute Resolution Act 2009, the plaintiff-opposite
party has filed the suit raising the same matter and therefore, the



learned Court below ought to have held that it has no jurisdiction to proceed with the suit. It has been also contended that the learned court below has wrongly held that the issues involve mixed question of law and fact which can be dealt only by the civil court.

3. The learned counsel for the plaintiff-opposite party however has submitted that there is no error of jurisdiction in the impugned order and even the principles in this regard has been settled by a bench decision of this Court in the case of ***Maheshwar Mandal & Anr vs The State of Bihar & Ors 2014(3) PLJR 281.***

4. After considering the submissions and perusal of the impugned order, it is manifest that the plaintiff-opposite party has filed the suit for declaration of title with further declaration that the order passed by the competent authority under the Act is not binding upon the plaintiff. The learned court below after considering the facts of the case including the decisions rendered by the authorities under the said Act and also after considering the principles of law has come to the conclusion that the prayer of the defendant-petitioner for dismissing/abatement of the suit under the provisions of Section 10 of the said Act (Bihar Land Dispute Resolution Act 2009) is not fit to be entertained.

5. This Court finds that under Section 9 of the C.P.C, the Civil Court has got plenary jurisdiction to entertain a suit of civil

nature. The jurisdiction of the Civil Court therefore can be only excluded when there is express provision in this regard. On behalf of the petitioner neither any provision of law nor any precedent has been brought to the notice of the court expressly excluding the jurisdiction of the Civil Court in such matters. It is therefore, apparent that the learned court below has committed no error of jurisdiction or material irregularity in passing the impugned order. The revision application is accordingly dismissed. However, it is observed that the petitioner shall be at liberty to raise all legal objections, available to him in accordance with law, in the suit which shall be considered according to the settled principles of law without being prejudiced by this order.

(V. Nath, J)

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