

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14168 of 2015

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Shiv Ratani Devi

..... Petitioner.

Versus

Baijanti Devi & Ors

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shri Prakash Srivastava

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

2 18-01-2016

Heard learned counsel Mr. Sri Prakash Srivastava on behalf of the petitioner.

By the impugned order the Court below considering the proviso to Order 6 Rule 17 C.P.C has rejected the amendment application filed by the defendant-petitioner in the written statement. It appears that the plaintiff-respondent filed Title Suit No. 151 of 2006 praying for declaration that the decree passed in Title Suit No. 144 of 1989/31 of 1989 is void and fraudulent and is not binding on the plaintiff. The petitioner appeared and filed contesting written statement denying the relationship of the plaintiff-respondent with Ambika Roy. Evidences were adduced and in fact the plaintiff's evidence was closed and thereafter some of the evidence of the petitioner was also recorded by the Court

below. At this stage amendment application was filed by the petitioner to the effect that the plaintiff-respondent was lost kid and was found loitering in a fair and she was brought by the wife of Ambika Roy. Therefore, nobody was knowing the name of parents of the plaintiff-respondent. The Court below considered the proviso to Order 6 Rule 17 of the Code of Civil Procedure and held that there is nothing to show that in spite of due negligence the defendant could not have raised the matter before the commencement of trial. Therefore, on the basis of the record when the Court below has recorded this finding, there is no question of interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India arises.

It may further be mentioned here that earlier petitioner was denying the relationship of the plaintiff with Ambika Roy. Now she is giving a positive fact before the Court that too after closure of evidences of the plaintiff.

In such circumstances, I find no merit in this application. Thus this writ application is dismissed.

(Mungeshwar Sahoo, J)

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