

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18116 of 2015

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Nathuni Sah

.... Petitioner/s

Versus

Sudama Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 27-06-2016

Heard learned counsel, Mr. Suman Kumar, appearing
for the petitioner.

2. Perused the order passed by the Sub-Judge, VIII,
Sikrahna at Dhaka, East Champaran, whereby the court below has
allowed the application filed by respondent No.2 and directed that
the Partition Suit Nos. 578 of 2012 and 276 of 2010 shall be heard
analogously in exercise of inherent jurisdiction under Section 151
C.P.C.

3. The grievance of the petitioner is that he has already
filed an application under Section 10 of the Code of Civil
Procedure for stay the subsequent suit but the court below has not
considered this matter in the impugned order.

4. Admittedly, an application failed by the petitioner
under Section 10 of the Code of Civil Procedure is still pending.
So far the present order is concerned, the court below has found

that both the suits are partition suit and the subject matter is same and the parties are also same. Therefore, the court below has directed that the suits may be heard analogously.

5. In such circumstances, when the court below has exercised an inherent jurisdiction under Section 151 C.P.C., it is not desirable to interfere with the said order in exercise of another discretionary jurisdiction under Article 227 of the Constitution of India. Thus, I find no reason to interfere with the impugned order and, accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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