

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.541 of 2015

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Jagannath Jha

.... Petitioner/s

Versus

Shri Narayan Jha & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Nath Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 02-03-2016

After some argument, the learned counsel, Mr. Shashi

Nath Jha submitted that one part of the order whereby the application filed by the petitioner under Order 39 rule 4 C.P.C. has been rejected is appealable under Order 43 Rule 1(r) of the C.P.C. However, the learned counsel submitted that if the lower court is directed to dispose of the suit expeditiously without granting unnecessary adjournments, the purpose of the petitioner shall be served.

So far the other part of the order whereby the Court below has rejected the application under Order 39 Rule 6 C.P.C. is concerned, it appears that the Court below has rejected the application on the ground that Order 39 Rule 6 C.P.C. is not maintainable because the petitioner is seeking permission to sell immovable property whereas under Order 39 Rule 6 C.P.C. movable property can be sold for the reasons mentioned in the said

rule.

In view of the above facts and circumstances of the case, the petitioner, if so advised may file the appeal against that part of the order whereby the application under Order 39 Rule 4 C.P.C. has been rejected.

The Court below is directed to expedite the matter considering the age of the partition suit which is of the year 1985 and as submitted by the learned counsel for the petitioner, it is strange to note that still today issues have even not been framed in the suit.

With this observation, this writ application is disposed of.

(Mungeshwar Sahoo, J)

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