

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6843 of 2015

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Pramod Kumar Singh & Ors

.... Petitioner/s

Versus

The State of Bihar & Anr.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anupa Nand Jha, Advocate.

For the Respondent/s : Mr. Anil Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 31-03-2016

Heard learned counsel Mr. Anupa Nand Jha for the
petitioners.

This application under Article 227 of Constitution of India has been filed by the petitioners for issuance of a writ in the nature of mandamus directing the Sub-Judge-VIII, Bhagalpur to dispose of the injunction application filed by the petitioners in Title Suit No. 170 of 1997.

The Hon'ble Supreme Court in the case of Shalini Shyam Shetty and another Vrs Rajendra Shankar Patil reported in (2010) 8 Supreme Court Cases 329 has held that "The power to issue writs underwent a sea-change with the coming of the Constitution from 26th January, 1950. Now writs can be issued by High Courts only under [Article 226](#) of the Constitution and by the Supreme Court only under [Article 32](#) of the Constitution. No writ petition can be moved under [Article 227](#) of the Constitution nor



can a writ be issued under [Article 227](#) of the Constitution. Recently, the Hon'ble Supreme Court in the case of Radhey Shyam and another Vs. Chhabi Nath and others, reported in (2015)5 SCC 423 has held that "all the Courts in the jurisdiction of a High Court are subordinate to it and subject to its control and supervision under Article 227. Control of working of subordinate Courts in dealing with their judicial orders is exercised by way of statutory appellate or revisional powers, or power of superintendence under Article 227. While appellate or revisional jurisdiction is regulated by the statutes, power of superintendence under Article 227 is constitutional. Therefore, in view of this decision, the order of the Civil Court against which neither there is forum of appeal nor there is forum of revision under the statute i.e. Code of Civil Procedure the order can be examined or supervised in exercise of supervisory jurisdiction under Article 227 of the Constitution as despite the curtailment of revisional jurisdiction under Section 115 CPC, the jurisdiction of High Court under Article 227 remains unaffected, and has not resulted in expanding High Court's power of superintendence. Now, therefore, if earlier to amendment, no revision application was maintainable under Section 115 CPC for direction to the Court below for expeditious disposal of any application or suit, how the application under

Article 227 will be maintainable after amendment of the code.

In view of the above facts and circumstances, this application under Article 227 of Constitution of India is not maintainable for the relief claimed and thus, it is dismissed.

(Mungeshwar Sahoo, J.)

Amit/-

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