

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2135 of 2016

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Nand Lal Yadav

.... Petitioner/s

Versus

Parmeshwar Yadav & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Labh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 03-08-2016

Heard learned counsel for the petitioner.

Perused the order dated 21.07.2015 passed by learned Subordinate Judge-VII, Bhagalpur in Title Suit No.524 of 2012 whereby the learned court below has rejected the application filed by the petitioner under Section 11 of the Code of Civil Procedure for dismissing the suit on the ground that the matter has already been decided by the D.C.L.R.

From perusal of the record, it appears that the plaintiffs-respondents filed the aforesaid suit for declaration of title and for declaration that the judgment and decree passed in Title Suit No.255 of 2010 has been obtained by playing fraud and for cancellation of the said judgment and decree. The learned counsel for the petitioner submitted that the suit is barred by preamble of Bihar Land Dispute Resolution Act, 2009 and that the plaintiffs of the present suit were not party in the suit filed by the present

petitioner in the year 2010. Therefore, the suit filed by the plaintiffs-respondents is barred under the principles of res judicata i.e. Section 11 of the Code of Civil Procedure.

From perusal of the impugned order, it appears that the court below has held that the res judicata will not apply in the facts and circumstances of the case.

It appears that frivolous and vexatious application has been filed by the present petitioner without there being any legal and factual basis only with a view to delay the further proceeding in Title Suit No.524 of 2012. Therefore, this writ application is dismissed with cost of Rs.5,000/- to be paid by the present petitioner in the court below to the respondents failing which the cost shall be realised by the Court through process of the Court.

Harish/-

(Mungeshwar Sahoo, J)

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