

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5309 of 2015

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Gajendra Singh & Anr

.... Petitioner/s

Versus

Ramashish Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 07-04-2016 Heard the learned counsel, Mr. Naresh Prasad, for the
petitioner.

The petitioners have filed this writ application against the order dated 11.12.2012 passed by Sub Judge Ist, Patna in Misc. Case No.12 of 2011 whereby the learned Sub Judge Ist, Patna has allowed the Misc. Case No.12 of 2011 and set aside the Judgment and preliminary decree passed in Title Partition suit No.90 of 2007.

It appears that the plaintiff respondent filed partition suit against the defendant respondent. The said suit was decreed ex.-parte. Thereafter, the Misc. case was filed by Ramashish Singh, the respondent No.1.

From perusal of the impugned order, it appears that both the parties adduced evidences in the Court below and after

considering the evidences oral and documentary, the learned Court below by the order dated 11.12.2012 allowed Misc. case under Order IX Rule 13 CPC and fixed the case for further hearing. As stated above, the finding recorded by the Court below is based on the evidence and materials available on record. Therefore, the findings cannot be interfered with in exercise of supervisory jurisdiction and the High Court cannot substitute its own finding after re-appraisal of the evidence as the High Court is not exercising either appellate or revisional jurisdiction.

So far the petitioners are concerned, admitted fact is that they are neither party to the partition suit nor party to the Misc. case. Therefore, at their instance, the order under challenge also cannot be interfered with because they are entirely stranger to the suit.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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