

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9207 of 2015

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Satyadeo Prasad Yadav

.... Petitioner/s

Versus

Vijay Kumar Prasad & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey No-5

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 12-04-2016

Heard the learned counsel, Mr. Sanjay Kumar Pandey

No.5 for the petitioner and the learned counsel, Mr. Jitendra

Kumar for the respondent No.1.

This application under Article 227 of the Constitution of India has been filed by the defendant No.1 in Title Suit No.101 of 1989 and defendant in Title Suit No.152 of 2005 for setting aside the order dated 16.04.2015 passed in Title Suit No.152 of 2005 by Sub Judge V, Gopalganj whereby the Court below rejected the application filed by the petitioner to stay Title Suit No.152 of 2005 and for deciding the same after the decision of Title Suit No.101 of 1989.

The Court below by the impugned order has held that the parties are different, the subject matter is not identical and, therefore, held that both the suits shall be taken up together for disposal and shall be decided on the same day.

Admitted fact is that the present plaintiff of Title Suit No.152 of 2005 is also defendant in Title Suit No.101 of 1989 and the present petitioner, who is defendant in Title Suit No.152 of 2005, is also defendant in Title Suit No.101 of 1989. Therefore, the defendant of Title Suit No.101 of 1989 is praying that the subsequent suit filed by another defendant of that suit should be stayed. It may be mentioned here that the plaintiff of 1989 suit is not praying the same relief.

The Hon'ble Supreme Court in the case of **National Institute of Mental Health and Neuro Sciences v. C. Parameshwara, AIR 2005 Supreme Court 242** has held that Section 10 applies only in cases where the whole of the subject matter in both the suits is identical. Admittedly, the whole property involved in 1989 suit is not the subject matter of the Title Suit of 2005. Only a part of that is involved and, therefore, the Court below has rightly held that both the suits shall be heard analogously and shall be decided on the same day.

I, therefore, find no reason to interfere with the impugned order. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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