

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23396 of 2013

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Rajendra Singh & Ors

.... Petitioner/s

Versus

Chaitu Chamar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 11-10-2017 Heard learned counsel Mr. Rajani Kant Pandey for
the petitioners.

This writ application has been filed under Article 227 of the Constitution of India for setting aside the order dated 20.09.2013 passed by learned Subordinate Judge-I, Kaimur at Bhabua in Miscellaneous Case No.22 of 2013.

It appears that Title Suit No.123 of 2005 was filed by the plaintiffs-petitioners. After appearance of the defendants written statements were filed and the case was fixed for hearing i.e. for framing issues and at this stage the suit was dismissed for default in view of the provision as contained in Order 9 Rule 8 of the Code of Civil Procedure. The plaintiffs-petitioners filed Miscellaneous Case No.22 of 2013 under Order 9 Rule 9 of the Code of Civil Procedure. The learned court below by the impugned order has rejected the said miscellaneous case.



Therefore, the order impugned is appealable under Order 43 Rule 1 (c) of the Code of Civil Procedure. The plaintiffs-petitioners instead of moving according to the C.P.C. have filed this application under the Constitution of India. Therefore, this writ application is dismissed as not maintainable.

However, if so advised, the petitioners may move according to law.

(Mungeshwar Sahoo, J)

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