

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.699 of 2013

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Umesh Mahto

.... Appellant/s

Versus

Paras Nath Mahto & Ors.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shiwjag Choudhary

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

6 23-02-2017 The office has reported that the memo of this miscellaneous appeal stood dismissed as against the respondent nos. 1 and 2 and, accordingly, a query has been made as to whether the memo of this miscellaneous appeal will proceed further in absence of respondent nos. 1 and 2.

Learned counsel for the respondent no. 3 is present.

No one appears on behalf of the appellant.

The impugned order dated 26.07.2013 goes to show that title suit no. 196 of 2007 was filed by the respondent no. 1 against the appellant and the other respondents for specific performance of the contract. The aforesaid suit was decreed ex-parte in favour of the respondent no. 1 on 20.02.2009. Thereafter, the appellant filed a petition under Order 9 Rule 13 of the C.P.C for setting aside the aforesaid ex-parte decree dated 20.02.2009 but the court below rejected the aforesaid petition filed on behalf



of the appellant under Order 9 Rule 13 of the C.P.C. passing the impugned order dated 26.07.2013 against which the present miscellaneous appeal has been filed.

The aforesaid fact goes to show that in absence of respondent nos. 1 and 2, the proper adjudication of the dispute is not possible and, therefore, this miscellaneous appeal cannot proceed further.

Accordingly, this Miscellaneous Appeal stands dismissed.

(Hemant Kumar Srivastava, J)

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