

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15991 of 2013

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1. Umashankar Sahu S/O Late Hari Lal Sahu Resident Of Village - Madudabad,
P.S. Mohiuddin Nagar, District - Samastipur

.... Petitioner/s

Versus

1. Dilip Kumar Sahu S/O Late Girija Devi, S/O Late Gaya Sahu Resident Of
Village - Shahpur Patori, P.S. Sahpur Patori, District - Samastipur
2. Ram Nagina Sahu Son Of Late Hari Lal Sahu Resident Of Village - Ram
Chandrapu, Praganna, Saraisa, P.S. Sarairanjan, District - Samastipur
3. Ganga Pd. Sahu Son Of Late Hari Lal Sahu Resident Of Village - Ram
Chandrapu, Praganna, Saraisa, P.S. Sarairanjan, District - Samastipur
4. Arbind Kr. Sahu Resident Of Village - Madudabad Pargana Saraisa, P.S.
Mohiuddin Nagar, District - Samastipur
5. Manoj Kr. Sahu Resident Of Village - Madudabad Pargana Saraisa, P.S.
Mohiuddin Nagar, District - Samastipur
6. Sri Mati Bimla Devi Daughter Of Late Hari Lal Sahu Resident Of Village -
Ram Chandrapu, Praganna, Saraisa, P.S. Sarairanjan, District - Samastipur
7. Sri Mati Rashmani Devi Daughter Of Late Hari Lal Sahu Resident Of Village -
Ram Chandrapu, Praganna, Saraisa, P.S. Sarairanjan, District - Samastipur
8. Sri Mati Pramila Devi Daughter Of Late Hari Lal Sahu Resident Of Village -
Ram Chandrapu, Praganna, Saraisa, P.S. Sarairanjan, District - Samastipur
9. Arun Prasad S/O Late Maheswari Pd. Munshi Resident Of Village - Ram
Chandrapu, Praganna, Saraisa, P.S. Sarairanjan, District - Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAM BILASH MAHTO, ADV MR. DILIP
KUMAR ROY, ADV & MR. BRAJESH KUMAR,
ADV

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

Date: 31-01-2017



Heard learned counsel for the petitioner.

By the impugned order the learned court below has dismissed the Miscellaneous Case No. 09 of 2010 as not maintainable.

The facts are not in dispute that after the decree passed in T.S. No. 91 of 1987 the defendant-petitioners filed petition under Order 9 Rule 13 C.P.C for setting aside the said decree. On this petition the Miscellaneous Case No. 16 of 2009 was instituted however, the said Miscellaneous Case No. 16 of 2009 was dismissed on 20.02.2010 and from the perusal of the said order, (Annexure-4). It transpires that the Court below has dismissed the case on merits. However instead of availing the legal remedy available against the said order, the present petitioner filed a petition for restoration of the Miscellaneous Case No. 16 of 2009. The Miscellaneous Case No. 09 of 2010 was instituted on the said petition for restoration but the same has been dismissed as not maintainable by the impugned order.

After considering the materials on record, this Court does not find that the court below has committed any illegality or irregularity in passing the impugned order. This Court, therefore, is not inclined to invoke its jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.



The application is, accordingly, dismissed.

The dismissal of the present application however shall not prejudice the petitioner in seeking legal remedy available to him in accordance with law.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.02.2017
Transmission Date	N.A.

