

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24234 of 2013

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Devprakash Bhagat

.... Petitioner/s

Versus

Vishwa Mohan Prasad & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Nath Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 17-10-2017

Heard the learned counsel for the petitioner.

This application under Article 227 of the Constitution of India has been filed by the defendant-petitioner for setting aside the order dated 18.09.2013 passed in Title Suit No.1 of 2011 by the learned Sub Judge I, Khagaria whereby the learned Sub Judge has allowed the amendment application filed by the plaintiffs-respondents.

The learned counsel for the petitioner submitted that after examination of five witnesses by the plaintiff, the plaintiff filed the amendment application alleging that during the pendency of the suit for specific performance of contract, the defendant has entered into another agreement with this plaintiff. The defendant although admitted that the signature is there on the agreement but it was forcibly obtained by the plaintiff after kidnapping the defendant. Further, since according to the plaintiff, another



agreement has been entered into, the cause of action is different, therefore, the amendment could not have been allowed by the trial court but without considering this aspect of the matter, the learned trial court has allowed the amendment application.

Perused the impugned order. Admittedly, the suit is for specific performance of contract. It appears that the subsequent agreement between the parties is admitted by the defendant-petitioner. The defendant is not denying his signature on the subsequent agreement. It is also admitted fact that this agreement is the subsequent development.

It is settled principles of law that the court can take into consideration the subsequent development in the facts and circumstances between the parties.

So far examination of five witnesses on behalf of the plaintiff is concerned, it may be mentioned here that the trial has just commenced and the defendant will never be prejudiced because he will have an opportunity to file additional written statement and can cross-examine the witnesses. Moreover, this is a subsequent event.

In view of the above facts and circumstances of the case that this is subsequent event and the evidence of the defendant has not yet started and that the defendant is not denying



his signature on the subsequent agreement, I find no irregularity or illegality or impropriety in the impugned order nor the impugned order suffers from jurisdictional error nor it occasioned failure of justice nor prejudiced the defendant-petitioner.

Thus, it is not a case for interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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