

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13733 of 2012

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Siyaram Thakur

.... Petitioner/s

Versus

Phekan Thakur & Ors.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

5 08-08-2017 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 21.05.2012 passed by learned Sub Judge-III, Motihari, East Champaran in Partition Suit No.27 of 1977 whereby the learned Sub Judge rejected the objection filed by the defendant-petitioner and confirmed the pleader commissioners report.

In view of the above facts, the order is in fact a decree within the meaning of said term defined under Section 2(2) of the Code of Civil Procedure against which First Appeal under Section 96 is maintainable but this application under Article 227 of the Constitution of India has been filed by the petitioner. When the petitioner has got remedy under the Code itself, this application under Constitution of India is not maintainable and thus this writ



application is dismissed.

Further, if so advised, the petitioner may pursue his remedy under the Code of Civil Procedure but that will be subject to limitation.

(Mungeshwar Sahoo, J)

Sanjeev/-

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