

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19121 of 2010

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SHASHI RANJAN S/O LATE NAGESHWAR PRASAD SINGH R/O VILL.-
KHANPUR ENGLISH, P.O.- KHANPUR MAL, P.S.-BATH, DISTT.-
BHAGALPUR

... .. Petitioner/s

Versus

1. SHISHIR KUMAR SINGH S/O SUDHIR KUMAR SINGH R/O VILL.-
KHANPUR ENGLISH, P.O.- KHANPUR MAL, P.S.-BATH, DISTT.-
BHAGALPUR
2. SULEKHA DEVI W/O BINOD SINGH R/O VILL.- KHANPUR ENGLISH,
P.O.- KHANPUR MAL, P.S.- BATH, DISTT.- BHAGALPUR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shrinandan Pd. Singh, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 30-03-2018

The petitioner has filed this application for setting aside the order dated 22.03.2010 passed by Sub Judge-VI, Bhagalpur in Title Suit No.45 of 2007. The learned court below as per impugned order refused to decree the suit under the provision of order 12 rule 6 of the CPC.

2. Heard learned counsel for the petitioner and perused the record.

3. It appears that the petitioner filed the aforesaid title suit for specific performance of contract. The defendant no.1 filed written statement and admitted the pleadings of the plaintiff. The defendant no.2 appeared and entered into compromise with the plaintiff and a compromise petition to this effect has been filed



before the court below. The petitioner in view of admission made by defendant no.1 filed a petition before the court below and prayed to dispose of the suit on the basis of admission which after hearing both the parties was rejected.

4. On perusal of impugned order, I find that at the time of hearing of petition before the court below, the defendant personally appeared and stated that his conducting lawyer without any instruction had drafted the written statement. The defendant had not assured the plaintiff that he would execute the document in his favour. The learned court below considering the dispute between the parties prevailing at the time of hearing of the petition rejected the petition. The provision of Order 12 Rule 6 provides that the court may at any stage of his suit either on application of any party or on its own motion and without waiting for the determination of any other question between the parties may give such judgment as it thinks fit having regard to such admission. In the case in hand, I find that the defendant filed objection petition alleging that the deed of agreement is a forged document. The defendant personally appeared in court and denied the case of plaintiff. The objections of defendant go to the root of the case and the court below has rightly refused to pass judgment on alleged admission in written statement.



5. In view of above, I find that the court has not committed any error in refusing to dispose of the suit under the provision of order 12 Rule 6 of the CPC. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

