

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.579 of 2018

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Raghwendra Kumar S/o Dr. Shiv Narayan Singh Yadav Resident of Village-Madhonagar, P.O.-Bhawanipur, District-Purnia.

... .. Defendant-Petitioner

Versus

1. Mahendra Prasad Yadav, S/o Late Chhedi Lal Yadav Resident of Village-Madhonagar, P.S.-Bhawanipur, District-Purnia.

... ..Plaintiff-Respondent

2. Dr. Shiv Narayan Singh Yadav @ Shiva Narayan Yadav S/o Late Ramlal Singh Yadav Resident of Village-Madhonagar, P.O.-Bhawanipur, District-Purnia.

... .. Defendant-Respondent

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Appearance :

For the Appellant/s : Mr. Arbind Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 14-12-2018 Heard the learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 28.02.2018, passed by learned Munsif, Dhamdaha, Purnia in Title Suit No.21 of 2016 by which the petition of the petitioner-defendant filed under Order XIV Rule 2 to frame preliminary issue about the maintainability of the suit in view of the judgment and decree passed by Lok Adalat in Title Suit No.397 of 1999, the present suit is not maintainable.

Learned counsel for the petitioner submits that Title Suit No.397 of 1999 was filed by the defendant and the plaintiff of the present suit appeared and compromised the case. Compromise decree was passed by Lok Adalat. The judgment



and decree passed by Lok Adalat on compromise is not liable to be questioned in any suit and, therefore, the present suit is not maintainable but it appears from perusal of the order that the plaintiff stated in the plaint that he never put signature on any plaint, Vakalatnama and compromise petition. The Court found that Mahendra Prasad Yadav, Son of Late Chhedi Lal Yadav is the plaintiff but in Title Suit No.397 of 1999, Mahendra Prasad Yadav was made as defendant, Son of Late Shiv Narayan Singh Yadav and there appears interpolation in the judgment and decree passed by Lok Adalat. This question is pure question of fact and law and the same cannot be decided as a preliminary issue.

Having considered the facts aforesaid, I do not find any merit in this civil miscellaneous petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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