

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6980 of 2015

Ramanand Prasad S/o late Satyanarain Prasad@Satya Narain Sah R/o Mohalla- Shankar Chauk - Satya Narain Marg, ward no. 18, P.s and Distt- Sitamarhi.

... .. Petitioner/s

Versus

1. Munna Azad Son of late Bishwanath Prasad Choudhary R/o Mohalla- Kapraol Road ward no. 19, P.s and District Sitamarhi.
2. Sanjay kumar son of Harihar Prasad R/o Mohalla- mahanth Sah Colony, ward No. 17, P.s and District - Sitamarhi.
3. Govind thakur s/o late Satrugan Thakur R/o Village- Bhavdeopur, Ward no. 14, P.s and Distt- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogendra Prasad Sinha, Advocate
For the Respondent/s	:	Mr. S.S.Thakur, Advocate
		Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 26-11-2018

This writ application has been filed by the plaintiff of Title Suit No.12 of 2012 pending in the Court of Sub Judge-Ist, Sitamarhi for quashing the order dated 07.02.2015 whereby and whereunder his prayer to withdraw the suit was refused.

2. Heard learned counsel for the petitioner and the respondents.

3. The present petitioner filed the aforesaid suit for declaration of his right and title. The defendants appeared and filed written statement. The defendants further filed counter claim which was admitted for hearing as per order dated 19.07.2013. The plaintiff after filing of counter claim, filed a petition praying therein to withdraw the suit. The learned court below after hearing both sides dismissed the petition of the petitioner observing that



the counter claim will proceed. The court below however gave liberty to the petitioner to file written statement within the stipulated period.

4. It has been submitted that the petitioner has no objection, if the counter case is allowed to proceed but so far title suit is concerned, the petitioner does not want to proceed with the same. The learned court below has thus erred in refusing to permit the petitioner to withdraw the said suit.

5. The learned counsel for the respondents on the other hand opposed the submissions but he concedes that the defendant is not in any way, if the petitioner is permitted to withdraw the suit. I also find that the defendant is not prejudiced.

6. In view of above facts and submissions of both the parties, the order of court below dated 07.02.2015 rejecting the petition dated 01.10.2013 filed on behalf of the petitioner to withdraw the suit is set aside and this writ application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.11.2018
Transmission Date	N/A

