

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1362 of 2018

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Maksudan Thakur @ Madhusudan Thakur

.... Petitioner

Versus

Asha Devi & Ors

.... Respondents

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Appearance :

For the Appellant/s : Mr. Ashok Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-10-2018

Heard learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 01.06.2018 passed in Title Suit No.654 of 2011 by which the petition of the petitioner filed under Order 1 Rule 10 of the C.P.C. for transposing him as plaintiff in the suit has been dismissed.

Learned counsel for the petitioner submits that the plaintiff and other defendants have conspired with each other and filed this title suit. The title suit is pending since 2011 but the plaintiff is not taking any proper steps for disposal of the suit. It is further submitted that the petitioner being defendant no.1 suspects that the plaintiff and other defendants may withdraw the suit after entering into compromise but I find that no such petition for withdrawal is filed. Order 23 Rule 1(a) enumerates when defendant can be transposed as a plaintiff if the original plaintiff



seeks permission to withdraw the suit. In the present case, the plaintiff is contesting the suit.

Thus, I find that learned Sub-Judge-VI, Siwan has rightly dismissed the petition of the petitioner for his transposition as plaintiff in the suit from defendant no.1.

Having considered the facts aforesaid, I do not find any reason to interfere in the order impugned. Accordingly, the civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

Amit/-

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