

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3489 of 2017

In
Miscellaneous Appeal No.65 of 2009

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Azima Khatoon

... .. Petitioner/s

Versus

Md. Illyas and Ors

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Subroteswar De

For the Opposite Party/s : Mr.Mukund Mohan Jha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

11 13-02-2020 Heard both sides.

The petitioner filed this petition for initiating a contempt proceeding against the opposite parties under Article 215 of the Constitution of India.

The petitioner complained of violation of an order passed under Order 39 Rule 1 & 2 of the Code of Civil Procedure but there is specific provision under Order 39 Rule 2A of the Code of Civil Procedure to proceed against such person who is alleged to have violated an order passed under Order 39 Rule 1 & 2 of the Code of Civil Procedure.

The learned counsel for the petitioner submits that if an order is passed under 151 of the Code of Civil Procedure, petition under Article 215 of the Constitution of India read with Section 12 of the Contempt of Courts Act, 1971 can be filed but



on the face of it, it appears that there is specific provision under the Code of Civil Procedure to proceed against such person who is alleged to have violated an order passed under Order 39 Rule 1 & 2 of the Code of Civil Procedure under Order 39 Rule 2A of the Code of Civil Procedure and resort to Article 215 of the Constitution of India read with Section 12 of the Contempt of Courts Act, 1971 cannot be taken.

On such, the learned counsel for the petitioner seeks permission to withdraw this petition in order to enable him to file a fresh petition under Order 39 Rule 2A of the Code of Civil Procedure.

Prayer is allowed.

This contempt petition is disposed of as withdrawn.

(Prabhat Kumar Jha, J)

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