

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C)No. 1290 of 2017

Deb Kumar Roy, son of late Dinbandhu Roy, resident of Mohalla-
 Guljarbag, Godda, PO-Godda, PS-Godda (T), District-Godda

... **Petitioner**

Versus

1. Rajesh Kumar, son of Lakshmi Kant Gupta, resident of Mohalla-
 Routara Chowk, PO-Godda, PS-Godda (T), District-Godda

2. Kishore Kumar Roy, son of Shashadhar Roy, resident of Mohalla-
 Guljarbag, Godda, PO-Godda, PS-Godda (T), District-Godda

... **Respondents**

CORAM : HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

 For the Petitioner : Mr. Ranjan Kr. Singh, Advocate

For the Respondents : Mr. K. K. Singh, Advocate

06/13.10.2017

Aggrieved of order dated 18.01.2017 passed in Civil Revision No. 01 of 2017 whereby challenge to order dated 08.11.2016 has been rejected with cost of Rs.2000/-, the petitioner has preferred the present writ petition.

2. Petitioner is the plaintiff in Title Suit No. 11 of 2014. The suit was instituted for a declaration of his right, title and interest over the suit land and for a declaration that sale-deed dated 07.11.2012 is null and void. In the suit, when the defendants did not appear the petitioner filed an application under Order IX Rule 6(1)(a). The petitioner filed an application under Order VIII Rule 10 C.P.C also, however, the trial Judge did not pass any order fixing the case for *ex-parte* proceeding. It is stated that on 08.11.2016, the trial Judge accepted the written statement filed on behalf of the defendant no.1. Seeking recall of order dated 08.11.2016, Civil Revision application under Section 115-A C.P.C was filed by the petitioner. This application has been dismissed by an order dated 18.01.2017. This is the order which has been impugned by the petitioner in the present proceeding.

3. A perusal of order dated 18.01.2017 would indicate that

the trial Judge presumed that no litigant can commit any mistake. Order dated 18.01.2017 begins with this presumption when the trial Judge records that Section 115-A C.P.C is not applicable within the State of Jharkhand still, Civil Revision has been filed under the aforesaid provision. Expecting knowledge of all laws, to the petitioner, enacted within the territory of India which obviously would include all the States, the trial Judge has imposed cost of Rs. 2000/- for filing an application under an incorrect provision in law. Apparently, the trial Judge has committed a serious error in law in imposing cost upon the petitioner. Accordingly, part of order dated 18.01.2017 is set-aside by which cost of Rs.2000/- has been imposed upon the petitioner.

4. The writ petition stands allowed, to the above extent.

(Shree Chandrashekhar, J.)

Amit/.