
(2012) 03 PAT CK 0153
In the Patna High Court
Case No : CWJC No. 2957 of 2012

Arun Vishwakarma @ Arun Kumar

APPELLANT

Vs

Smt. Binita Kumari and Others

RESPONDENT

Date of Decision : 12-03-2012

Acts Referred:

Citation : (2013) 3 PLJR 582

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Birendra Narayan Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

Shivaji Pandey, J.—Heard learned counsel for the petitioner and the respondents. Petitioner is challenging the order dated 17th December, 2011 passed in Title Suit No. 22 of 2011.

2. In this case, an objection was filed in the court below that Sri Ram Narayan Brahmachari cannot represent his wife Smt. Binita Kumari who is plaintiff in the aforesaid Title Suit.

3. From the side of petitioner it has been contended that as Sri Ram Narayan Brahmachari is a witness to the case and, as such, he cannot represent his wife Smt. Binita Kumari. The court below heard the matter and rejected the submission of petitioner. Learned counsel for the petitioner submits that as per, Rule 13 of the Bar Council of India Rules provides that an Advocate should not accept a brief or appear in a case, if he has reason to believe that he will be a witness in the case. The rule is directory in nature and the aforesaid Rule will be applicable in a situation when interest of the Advocate is adverse to his client. Advocates Act provides list of misconduct and the counsel for the petitioner could not point any provision that appearance of an Advocate will be a mis-conduct in the event he may possibly be a witness. But in the present case Sri Ram Narayan Brahmachari who is fighting for the cause of his wife cannot be deprived to

represent his wife in the Title Suit, even though he is a witness to the case as Sri Brahmachari has claimed that the property has been purchased by him in the name of his wife. In this view of the matter, I do not find any merit in the present case. The petition is, accordingly, dismissed.