

COURT OF SUB-JUDGE-VI-CUM-A.C.J.M.-VI, PATNA CITY

Misc. Case No.5/19

C.I.S. No.3505/19

ORDER

28.02.2020.

Attendance has been filed on behalf of both sides. Today the case record has been produced for passing order on the petition filed on behalf of the opposite party dated 16.12.2019. No rejoinder has been filed on behalf of the petitioner, rather it has been stated by the learned counsel for the petitioner that he would like to argue in this case without filing any rejoinder.

Learned counsel for the opposite party while moving his petition has argued that the opposite party heard rumors that petitioner got order against the opposite party from this Court and thereafter, searching the website of the e-courts, he found the status and the case number of this miscellaneous case. He, further, has stated that on status of the web report, the case is pending for appearance on the fixed date on 02.12.2019. After that, he came to know that the case was fixed for ex-parte hearing on 15.10.2019. He also has stated that it will be transpired from the record that no notice of *Nazarat* and postal has been served upon this opposite party and he also does not acquitted with the publication order and because there is no laches from the side of the opposite party, the order dated 15.10.2019 may be recalled and he may give opportunities to contest the case. On the other hand, learned counsel for the petitioner has stated that he intentionally does not come up before the Court so he may not be permitted to contest the case.

Heard and perused the case record. I find that this miscellaneous case has been filed under Order IX Rule 4 read with Section 151 of CPC which is arising out of Title Suit No.1 of 2017. I, further, found that record has been proceeded ex-parte on 15.10.2019 and opposite party appeared on 02.12.2019. Seeing the facts and circumstances, in the interest of justice, order dated 15.10.2019 is hereby recalled. Put up on 04.04.2020 further proceeding.

Dictated

Sub-Judge-VI-cum-A.C.J.M.-VI,
Patna City.