

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11135 of 2015

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Khairoon Nisha, wife of Abdul Manan, resident of Mohalla-Chhata Masjid
Bari Road, P.S. Kotwali, District-Gaya.

.... Petitioner/s

Versus

Syed Nazeebur Rub, son of Majebul Rab, resident of Chata Masjid Fakir
Toli, P.S. Kotwali, District-Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar No.- 4

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 03-09-2015 Nobody appears on behalf of the petitioner even after repeated call. Mr. Radha Mohan Pandey, the learned counsel for the respondent is present and has been heard on merit.

The plaintiff-respondent has filed the suit for specific performance of contract on the basis of unregistered agreement for sale. The defendant in the suit had filed a petition under Order 7 Rule 11 C.P.C. praying for rejection of the suit on the ground that the suit was not maintainable on the basis of unregistered agreement for sale as envisaged under Section 17-A of the Indian Registration Act. The learned court below has rejected the said petition and the matter came before this Court in C.W.J.C. No. 3421 of 2013. After hearing the parties, this Court remanded the matter back on 03.05.2013 directing the learned court below to



pass fresh order on the petition filed by the defendant after taking into account the provisions of Section 17 (1A) of the Registration Act. After the remand, the matter was considered by the learned court below and by the impugned order, the learned court below has come to the conclusion that the petition filed by the petitioner for rejection of the plaint on the ground of applicability of the provision of Section 17-A of the Registration Act requiring agreement for sale to be registered is not attracted as the plaintiff has not claimed to have been put in possession on the basis of the said unregistered agreement for sale.

Perused the impugned order and the submissions made by Mr. Pandey, the learned counsel appearing on behalf of the respondent. The learned court below has categorically come to the conclusion that the plaintiff has filed a simple suit for specific performance of contract wherein no assertion, to have been put in possession on the basis of unregistered agreement for sale, has been made. It has also been taken into notice by the learned court below that one of the reliefs sought for by the plaintiff in the suit is for delivery of possession. The learned court below has taken into notice the entire amended provision of Order 17 (1A) of the Registration Act and thereafter has reached to the aforesaid conclusion.

After consideration of the matter, this Court does not find illegality or error of jurisdiction in passing the impugned order by the learned court below. The writ application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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