

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15784 of 2015

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Sheonandan Prasad @ Shivnandan Prasad

.... Petitioner/s

Versus

Arvind Kumar Gupta & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

- 2 11-12-2015
1. At the time of hearing of the interlocutory application No.9371 of 2015, the learned counsel submitted that the writ application may be heard on merit in admission matter. Accordingly, I heard him in admission matter.
 2. Heard the learned counsel, Mr. Surendra Kishore Thakur, on behalf of the petitioner.
 3. The petitioner has challenged the order dated 24.7.2015 passed by Sub Judge II, Munger in Misc. Case No.14 of 2014 whereby the Court below rejected the Misc. case registered on the basis of the objection filed under Section 47 of the Code of Civil Procedure by the Judgment debtor petitioner.
 4. The only grievance of the petitioner is that the Court below instead of admitting the Misc. case decided the same and by the impugned order rejected the objection under Section 47 CPC.

5. Admittedly, the redemption suit has been decreed against the petitioner who is judgment debtor where the petitioner filed objection under 47 of the Code of Civil Procedure alleging that the decree is inexecutable. By the impugned order the Court below rejected the said application finding that the decree is against the present petitioner.

6. The Hon'ble Supreme Court in the case of *Dhurandhar Prasad Singh Vs. Jai Prakash University AIR 2001 SC 2552* has held that **'the powers of Court under Section 47 are quite different and much narrower than its powers of appeal, revision or review. The exercise of powers under Section 47 of the Code is microscopic and lies in a very narrow inspection hole. Thus it is plain that executing Court can allow objection under Section 47 of the Code to the executability of the decree if it is found that the same is void ab initio and nullity, apart from the ground that decree is not capable of execution under law either because the same was passed in ignorance of such a provision of law or the law was promulgated making a decree inexecutable after its passing.'**

7. In view of the above settled principle of law, the order whereby the Court below has rejected the objection cannot be

interfered with in supervisory jurisdiction. Accordingly, this writ application is dismissed. Consequently, this interlocutory application is also dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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