

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1113 of 2014

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Prem Kumar

.... Petitioner/s

Versus

Sunita Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kr. Sinha Kundan

For the Respondent/s : Mr. Pankaj Kumar

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 09-12-2015 Heard Mr. Abhay Kumar Sinha Kundan, learned counsel
appearing on behalf of the petitioner and Mr. Pankaj Kumar,
learned counsel appearing on behalf of the respondents.

It appears that the plaintiff- respondents filed Eviction
Suit (Eviction Suit No. 13 of 2004) against the defendant-
petitioner. The defendant appeared and filed written statement and
then injunction application was filed under Order 39, Rules 1 and 2
CPC praying for restraining the plaintiff from interfering in the
running of business of the defendant and also not to create
nuisance at the shop premises in any manner and also not to
damage showcase and other articles.

The trial court by the order dated 03.05.2011
rejected the said application. The defendant- petitioner filed
Miscellaneous Appeal No. 52 of 2011 and by judgment dated 29th
June, 2012, 2nd Additional District Judge, Muzaffarpur dismissed

the Miscellaneous Appeal recording the finding that there is no illegality or infirmity in the order passed by the trial court rejecting the injunction application.

From perusal of the judgment aforesaid, it appears that the Appellant Court found that the trial court found that neither there is balance of convenience nor prima facie case for grant of injunction is made out and therefore the court has rightly rejected the application.

In such circumstances, this Court in exercise of jurisdiction under Article 227 of the Constitution of India cannot interfere with the judgment of Appellate Court.

This writ application is, accordingly, dismissed.

(Mungeshwar Sahoo, J)

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