

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19563 of 2014

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Raj Kumar Singh

.... Petitioner/s

Versus

M/s Engineers Enterprises & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha

For the Respondent/s : Mr. Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 01-12-2015 Heard the learned counsel, Mr. Subodh Kumar Jha for the petitioner and the learned counsel, Mr. Shiv Shankar Prasad Yadav for the respondent Nos.1 and 2 and the learned counsel, Mr. Kumar Priya Ranjan on behalf of respondent No.3 on I.A. No.6029 of 2015.

At the time of hearing of this I.A., the learned counsels appearing on behalf of the parties submitted that the writ application may also be heard on merit in admission matter. Accordingly, I heard the parties on merit in admission matter.

This application under Article 227 of the Constitution of India has been filed by the plaintiff-petitioner against the order dated 06.09.2014 passed by the learned Sub Judge III, Danapur in Title Suit No.293 of 2010 whereby the learned court below refused to direct the respondent Nos.1 and 2 to produce the original alleged baibayana agreement to sale.



It appears that the aforesaid Title Suit No.293 of 2010 was filed by the plaintiff-petitioner for specific performance of the agreement dated 15.06.2005. During the pendency of the suit, the petitioner filed the application praying for direction to the respondent to produce the original document in the court below or the photocopy filed by the petitioner be marked as Exhibit in the suit. The court below by the impugned order has rejected this application.

The learned counsel for the petitioner submitted that the original copy of the said agreement was kept by the defendant-respondent and, therefore, it is necessary to direct them to produce the same before the court or the photocopies filed by the petitioner be marked as exhibit but the court below wrongly rejected the said prayer.

On the other hand, the learned counsel appearing on behalf of the respondents submitted that in the written statement, the case of the defendant is that they never entered into such agreement with the plaintiff-petitioner and in fact, the alleged agreement is forged and fabricated document. In such circumstances, the court below has rejected the prayer made by the plaintiff-petitioner. Therefore, the impugned order cannot be interfered with in exercise of supervisory jurisdiction under

Article 227 of the Constitution of India.

Perused the order. The court below noticed the fact that the defendants are disputing the genuineness of the agreement dated 15.06.2005 and according to their case, they had never entered into an agreement with the plaintiff and that the agreement is forged and fabricated document. The court below, therefore, declined to direct the defendants because it is not an admitted document.

In such circumstances, in exercise of jurisdiction under Article 227 of the Constitution, the impugned order cannot be interfered with, as such, this writ application is dismissed. Consequently, the I.A. be also rejected.

(Mungeshwar Sahoo, J)

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