

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6110 of 2011**

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Smt.Nikita Nishi , d/o Umesh Mandal, r/o village bagarha, p.S. Farbisganj  
District Araria at present R/o Mohalla Shanti Niketan Hata (Tatma Toli )  
P.S. K. Hat, District Purnia

.... .... Petitioner/s

Versus

1. The State of Bihar through Law Secretary
2. Swarn Mani Singh s/o Sri Gajendra narain Singh r/o Mohalla Basant  
Bihar Colony (Lalganj ) By pass road, P.S. K. Hat, District Purnia

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ram Shankar Das

For the Respondent/s :

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**  
**ORAL ORDER**

2      30-06-2015                      Heard Sri Ram Shankar Das, learned counsel for the  
petitioner and learned AC to GP No. 20.

The present writ petition has been filed with a prayer to  
quash an order dated 26.10.2010 passed in Title Suit No. 48 of  
2009.

Learned counsel for the petitioner accepts that the Suit  
was filed for declaration of title by the plaintiff/ respondent no. 2.  
He submits that since the Suit was under valued a preliminary  
objection petition was filed by the defendant/ petitioner. He  
submits that in view of valuation the pecuniary jurisdiction was  
also required to be decided. From the defendant's side two  
petitions were filed. One was in respect of preliminary objection  
on the ground of valuation of the Suit as well as pecuniary

jurisdiction and second petition was filed for adding certain issues which were settled earlier on 4.6.2010. The prayer was made for adding issues, which are as follows:-

- “(i) Is the suit under valued?***
- (ii) Is the court fee paid by the plaintiff is sufficient?***
- (iii) Whether the above mentioned suit is beyond the pecuniary jurisdiction of this court?***
- (iv) Whether this court has got pecuniary jurisdiction to try the suit?”***

The learned court below rejected the petition in respect of preliminary objection. However, the additional issues prayed by the petitioner was accepted.

Learned counsel for the petitioner tried to persuade the court that the Suit was completely under valued and as such the same issue was required to be decided before proceeding on the merit of the case, which has not been done.

Besides hearing, I have perused the materials available on record including the impugned order. The issue which was raised by the petitioner was a mixed question of fact and law which was obviously not required to be adjudicated at the preliminary stage, and as such, the court is of the opinion that while allowing the prayer made by the petitioner in the 2<sup>nd</sup> petition i.e. allowing the additional issue, the court below has

rightly rejected the preliminary objection petition.

I do not find any defect in the order impugned.

The writ petition stands dismissed.

**(Rakesh Kumar, J)**

Praful/-

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