

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3138 of 2011**

Barun Kumar Choudhary, son of late Shivnandan Choudhary, resident of Mohalla  
Kashim Bazar, P.S.- Kashim Bazar, District- Munger.

.... .... Petitioner/s

Versus

Sanjiva Kumar Sharma, son of Devendra Prasad Sharma, resident of mohalla  
Kashim Bazar, P.S.- Kashim Bazar, District- Munger.

.... .... Respondent/s

**Appearance :**

For the Petitioner/s : Mr. SHAKTI SUMAN KUMAR

For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL**

ORAL JUDGMENT

**Date: 17-08-2015**

Heard Mr. Uma Kant Shukla for the petitioner and Mr. Rajesh  
Sinha for the respondent.

The defendant of Title Suit No. 1 of 1999, filed by the plaintiff-  
respondent for specific performance of contract, is aggrieved by the  
order dated 14.12.2010 whereby the application dated 17.5.2010 filed  
by the defendant-petitioner to direct the plaintiff to produce in original  
fixed deposit certificates has been considered and rejected.

The case of the plaintiff is based on an unregistered  
*Mahadnama*. The defendant took the plea that the amount was  
received but for purchase of several certificates for the plaintiff from a  
company called Satyadarshi Savings & Finance Company Ltd (now  
closed). The plaintiff outrightly denied the existence of aforesaid  
certificates. The Trial Court having regard to the contention of the

plaintiff rejected the said application by the impugned order.

Mr. Shukla states that while rejecting the said application, the Trial Court has observed about the falsity of the case of the defendant which may prejudice his case.

On the other hand, the Counsel for the plaintiff-respondent has urged that it is a simple case of specific performance of contract based on a *Mahadnama*.

Be that as it may, considering the application which was filed by the defendant-petitioner and the operative part of the order passed by the Trial Court by which the said application was rejected setting out reasons therefor, I am not inclined to interfere with the order. If the defendant has set out any case, it is the bounden duty of the defendant to prove the same either by oral or documentary evidence at the trial.

The writ application is dismissed.

**(Kishore Kumar Mandal, J)**

Pankaj/-

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