

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19105 of 2010

=====

1. Mahendra Singh
2. Ashok Singh
Both sons of Shri Ram Pujan Singh
resident of Village- Majhariya, P.S.- Buxar Industrial Area, District- Buxar

.... Defendants .. Petitioners

Versus

1. Dinesh Kumar Chaurasiya S/o Late Ganesh Prasad Chaurasiya resident
of Mohalla- Pirpati Road, Buxar, P.S.- Buxar, District- Buxar
Respondent -- plaintiff
2. Rakesh Kumar Chaurasiya S/O Late Ganesh Prasad Chaurasiya resident
of Mohalla- Pirpati Road, Buxar, P.S.- Buxar, District - Buxar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Gopal Pandey
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 28-07-2015 Heard learned counsel for the petitioners.

The petitioners, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, have prayed for quashing of an order dated 26.7.2010 passed by Sub Judge II, Buxar, in Title Suit No. 161 of 2008. By the said order learned court below has rejected the preliminary objection which was raised on behalf of the defendant no. 2/ petitioners. Learned counsel for the petitioners submits that respondent no. 1 had filed a suit under the provisions of Specific Relief Act, 1963 for enforcement of contract. He submits that the suit was filed primarily on the basis of an unregistered “Mahadnama” and as

such, a preliminary objection was raised by the defendant no. 2/ petitioners that suit is not maintainable unless it is adjudicated on the question of registration. In support of his submission Sri Gopal Pandey, learned counsel for the petitioners has placed reliance on an order of a single bench passed by this court in a case reported in **2010 (1) BBCJ V-61 (Sri Ashok Goenka & Anr. Vs. Chandra Bhushan Singh & Ors.)**. Accordingly, he has prayed for quashing the impugned order.

Besides hearing learned counsel for the petitioners, I have also perused the impugned order and materials available on record as well as the order on which reliance has been placed by the petitioners. The preliminary objection which was raised by the petitioners has rightly been rejected by the court below. So far as the judgment of Ashok Goenka case is concerned, in that case appeal was filed in the matter of injunction. The question which is being raised by the petitioners can well be examined and adjudicated at the final stage only, not at the preliminary stage.

I do not find any ground to interfere with the impugned order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

U			
---	--	--	--