

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.849 of 2016**

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Ranvir Chaudhary

.... Appellant/s

Versus

Arun Kumar Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dronacharya

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 17-10-2016

Heard learned counsel, Mr. Dronacharya, appearing
for the petitioner.

2. Perused the impugned order dated 15.03.2016 passed
by the Sub-Judge-II, Patna City in T.S. No. 31 of 2013, whereby
the learned court below rejected the application filed by the
petitioner to decide the question of pecuniary jurisdiction of the
court and payment of ad-valorem court fee thereon.

3. The suit has been filed for declaration of title and
confirmation of possession and in the alternative recovery of
possession of the suit property. The suit has been valued at Rs.
51,000/- The petitioner filed application that the valuation is more
than Rs. 81 Lakh and, therefore, the plaintiff should have directed
to pay the ad-valorem court fee after correcting the valuation of
the suit property.

4. From perusal of the impugned order, it appears that

the court below considered this fact and then held that this matter can be decided at the time of hearing of the suit and in fact valuation is found more than Rs. 51,000/- then the plaintiff shall be directed to pay ad-valorem court fee.

5. Admittedly, defence of the plaintiff only the valuation of the suit property cannot be decided at this stage. This may be an issue in the suit but that issue is not an issue of law under Order 14 Rule 2 C.P.C. The court can decide the issue of law only when it touches jurisdiction of the Court and if the suit is barred. So far pecuniary jurisdiction of the case is concerned, the suit is pending before the Sub-Judge, who has got unlimited pecuniary jurisdiction. So far payment of ad-valorem court fee is concerned, it is between the plaintiff and the state. There is no question of prejudice to the petitioner arises in view of the decision of the Supreme Court reported in **AIR 1961 SC 1299**. Thus, I find no reason to interfere with impugned order in exercise of supervisory jurisdiction. Thus, this civil miscellaneous application is dismissed.

Brajesh/-

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(Mungeshwar Sahoo, J)