

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1103 of 2016**

=====

Ram Nagina Pathak

.... Appellant/s

Versus

Jai Shanker Pathak & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ashok Kumar Garg

For the Respondent/s : Mr. Md.Khurshid Alam-Aag12

=====

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

2 11-11-2016

Heard learned counsel for the petitioner.

2. Perused the impugned order dated 26.06.2016 passed by the learned Munsif, Kaimur at Bhabhua in T.S. No. 46 of 2013 rejecting the application filed by the petitioner under Order 7 Rule 11(d) C.P.C.

3. It appears that the plaintiffs-respondents filed the aforesaid suit for declaration of title and confirmation of possession. The defendant-petitioner appeared and filed contesting written statement and then filed an application under Order 7 Rule 11(d) C.P.C. praying for rejection of the plaint on the ground that the suit is barred under Section 16 of the Bihar Public Land Encroachment Act as the competent authorities under the Act have already ordered for removal of the encroachment and the writ application filed before the High Court has already been dismissed.

4. So far Section 16 of the Bihar Public Land Encroachment Act is concerned, it has got no relation with the declaration of title and the suit cannot be said to be barred by Section 16 of the B.P.L.E. Act. Therefore, the learned court below has rightly rejected the application filed by the petitioner under Order 7 Rule 11(d) C.P.C. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous application is dismissed.

brajesh/-

U			
---	--	--	--

(Mungeshwar Sahoo, J)