

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1493 of 2013

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Manoj Kumar Verma S/O Baban Jee Pd. Verma R/O Vill./ Mohalla Nathuni
Ka Bagh Dumraon, P.S. Dumraon, Distt. Buxar

.... Petitioner/s

Versus

1. Tetari Devi W/O Keshav Prasad R/O Village Nathuni Ka Bagh
Dumraon, P.S. Dumraon, Distt. Buxar
2. Keshav Prasad, S/o Jagdish Prasad, R/O Village Nathuni Ka Bagh
Dumraon, P.S. Dumraon, Distt. Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rang Nath Choubey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

4 05-01-2016

Heard the learned counsel for the petitioner and

the learned counsel for the respondent no.1.

Calling in question the impugned order passed
by the appellate court below in Miscellaneous Appeal No.14/2011
affirming the rejection of plaint by the trial court under Order 7
Rule 11 C.P.C., the present application under Article 227 of the
Constitution of India has been filed.

There is no dispute that the plaintiff of
T.S.No.09/2010 had executed a gift deed on 30.10.1987 in favour
of the defendants. However, the said suit was filed by the plaintiff
praying for revocation of the said gift deed. The defendants filed
petition for rejection of plaint under Order 7 Rule 11(d) C.P.C.

The trial court allowed the prayer for rejection of the plaint as made by the defendants and thereafter the appeal was filed by the plaintiff. By the impugned order the appellate court has dismissed the appeal.

The learned counsel for the petitioner has submitted that the gift deed was a conditional gift and as those conditions were not fulfilled, the suit was maintainable. However, during the course of submission the learned counsel for the petitioner has placed recitals of the gift deed dated 30.10.1987 and has also accepted that there is no such condition mentioned in the said gift deed which has contained only the wish of the donor that the donee would look after and take care of him. The finding by the court below is also that there is no such condition in the said gift deed in order to attract the provision of Section 126 T.P.Act. The courts below have passed the order after considering the facts and circumstances of the case as well as in accordance with the principles established by law. This Court, therefore, does not find any illegality or irregularity in the impugned order.

The writ application sans merit is dismissed.

(V. Nath, J)

Nitesh/-

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