

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1319 of 2016**

Prakash Jamaiyar

.... Appellant/s

Versus

Nawal Kishore Yadav

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Keshri Kishore Sharan

For the Respondent/s : Mr.

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

2 14-12-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated 08.06.2016 passed by learned Subordinate Judge-I, Khagaria in Title Suit No.105 of 2014 whereby the learned court below rejected the application filed by the petitioner under Order 7 Rule 11 (d) CPC praying for rejection of the plaint.

It appears that the plaintiff-respondent filed the suit for specific performance of contract on the basis of unregistered document. The petitioner filed an application under Order 7 Rule 11(d) CPC praying for rejection of the plaint on the ground that the agreement is unregistered.

The Hon'ble Supreme Court in the case of **Aloka Bose Vs. Parmatma Devi and Ors., A.I.R. 2009 Supreme Court 1527** has held that all agreements of sale are bilateral contracts as promises are made by both - the vendor agreeing to sell and the



purchaser agreeing to purchase. It cannot be said that unless agreement is signed both by the vendor and purchaser, it is not a valid contract. Even an oral agreement to sell is valid. If so, a written agreement signed by one of the parties, if it evidences such an oral agreement will also be valid. Moreover, in India, an agreement of sale signed by the vendor alone and delivered to the purchaser, and accepted by the purchaser, has always been considered to be a valid contract. In the event of breach by the vendor, it can be specifically enforced by the purchaser. Thus, according to the decision, it is not necessary that all agreements must be registered and then only the suit for specific performance will be maintainable.

In my opinion, the application filed by the petitioner under Order 7 Rule 11 (d) CPC is misconceived. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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