

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.906 of 2016**

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Khikhar Sah & Ors

Versus

Chandra Kala Devi & Ors

.... Appellant/s

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prakritita Sharma

For the Respondent/s : Mr.

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

2 25-10-2016

Heard learned counsel for the petitioners.

Perused the impugned order dated 02.06.2016 passed by learned Munsif (Civil Judge) II, Samastipur in Title Suit No.27 of 2014 whereby the learned court below rejected the application filed under Order 7 Rule 11 CPC praying for rejection of the plaint.

It appears that the plaintiff-respondent filed the aforesaid suit for declaration of title on the basis of registered sale deed and for removal of encroachment over 1 katha land. The defendant filed written statement contesting the suit denying the allegation made by the plaintiff. Thereafter application under Order 7 Rule 11 C.P.C. was filed by the defendant-petitioner praying for rejection of the plaint. In the application nowhere the defendant-petitioner stated under which clause of Rule 11 Order 7 C.P.C. the prayer was made for rejection of the plaint. However,

from perusal of the application under Order 7 Rule 11 C.P.C., it appears that the case of the defendant-petitioner is that the plaintiff's sale deed is illegal sale deed and it was registered from the registry office of Kolkata and not the Registrar/Sub-Registrar of the District where the suit property is situated.

So far rejection of plaint is concerned, the plaint cannot be rejected under any of the provision as mentioned in Order 7 Rule 11 C.P.C. In the said provision there is nothing which says that the plaint can be rejected if the sale deed, on the basis of which the plaintiff is claiming title, is illegal. Whether the sale deed of the plaintiff is illegal sale deed or on the basis of sale deed the plaintiff has not acquired any title is a matter that can be decided at the stage of final judgment of the suit and not under Order 7 Rule 11 C.P.C.

Thus, I find no reason to interfere with the impugned order and accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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