

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2420 of 2014

=====

Poshan Mahto @ Pokhan Mahto

.... Petitioner/s

Versus

Pukari Devi & Anr

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 07-01-2016 1. Heard the learned counsel for the petitioner.

2. The Munsif IInd, Begusarai by the order dated 19.09.2013 passed in Title Suit No.10 of 2012 rejected the application filed by the defendant petitioner to decide the issue of pecuniary jurisdiction under Order 14 Rule 2 of the Code of Civil Procedure.

3. The learned counsel for the petitioner submitted that the plaintiff filed the suit for declaration of title valuing the suit at Rs.25,000/- only. The defendant filed application raising the question that the valuation of the suit property is more than 9 lakhs and, therefore, the Munsif has got no pecuniary jurisdiction to try the suit. Separate application was filed under Order 14 Rule 2 CPC for deciding this issue as preliminary issue but the Court below has rejected the said application erroneously.

4. Perused the order passed by the Court below. The Court

below held that this issue cannot be decided as preliminary issue because it is not an appellate question of law rather a mixed question of law and fact.

5. This Court in the case of *Umesh Narain Vs. Jatti Devi* 2013 (1) PLJR 47 has held that ‘though the issue is one of jurisdiction, the same cannot be decided as a preliminary issue as it would require consideration of evidences.’ Further Order 14 Rule 2 sub Rule 2 provides that where the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only it may try that issue first if that issue relates to the jurisdiction of the Court or a bar to the suit created by any law.

6. Admittedly, the question of pecuniary jurisdiction in this case is not a pure question of law rather it is mixed question of law and fact and unless the evidences is produced, the same cannot be decided as preliminary issue as has been decided by this Court in the aforesaid decision. Therefore, the Court below has rightly rejected the application. As such, this writ application is dismissed.

Sanjeev/-

(Mungeshwar Sahoo, J)

U		T	
---	--	---	--