

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5972 of 2016

=====

Shail Devi

.... Petitioner/s

Versus

Lalita Devi & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 26-07-2016

Heard learned counsel Mr. Ansul for the petitioner.

Perused the order dated 18.12.2015 passed by
Subordinate Judge-III, Jehanabad in Partition Suit No.55 of 2009.

It appears that compromise application was filed by the parties with affidavit. Prior to recording compromise the plaintiff filed an application that without paying the amount shown in the compromise application fraudulently signature was obtained in the compromise application. Therefore, the plaintiff prayed for deciding the suit on merit. The court below by the impugned order simply held that there is no agreement and, therefore, the suit will be decided on merit.

Learned counsel Mr. Ansul relied upon the decision of the Supreme Court, **(2010) 5 Supreme Court Cases 104 (Shanti Budhiya Vesta Patel and Others Vs. Nirmala Jayprakash Tiwari and Others)**.

It may be mentioned here that the compromise application although has been filed by the parties, it was never pressed nor it was recorded by the court below and that is the observation of the Court. Therefore, when the application was filed by the plaintiff, there was no order recording the compromise. In such circumstances, the decision relied upon by learned counsel for the petitioner is not applicable in this case and thus I find no reason to interfere with the impugned order.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Harish/-

U			
---	--	--	--