

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6175 of 2015

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1. Raghunath Yadav son of Rudal Yadav resident of village- Barwat Sena,
P.S.- Bettiah Mufassil, District- West Champaran

.... Petitioner/s

Versus

1. Raghubar Yadav son of Bishwanath Yadav, resident of village- Barwat
Sena, P.S.- Bettiah Mufassil, District- West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pathak Dhananjay Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 30-03-2016

Heard, Mr. Dhananjay Kumar no.2, learned counsel

for the petitioner.

The learned Sub Judge-III, Bettiah, West Champaran rejected the application filed by the defendant-petitioner under Order 7 Rule 11 of the Code of Civil Procedure for dismissal of the suit being Title Suit No. 262 of 2011. It appears that the plaintiff respondent filed the aforesaid suit for specific performance of contract to enforce an oral agreement. The application under Order 7, Rule 11 CPC was filed to dismiss the suit on the ground that oral agreement is not enforceable under law. The Court below has rejected this application by the impugned order. The Hon'ble Supreme Court in the Case of Alok Bose –v- Parmatma Devi, AIR 2009 SCC 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 the purchaser, it is not a valid contract. Even an oral agreement to sale is valid.

Now, therefore, in view of the settled proposition of law laid down by the Supreme Court, the oral agreement is valid. Therefore, the plaintiff is required to prove the said oral agreement for enforcement of the same in the suit but on the ground that it is not enforceable, the suit cannot be dismissed at the very initial stage under Order 7, Rule 11 CPC.

Accordingly, this application is dismissed.

(Mungeshwar Sahoo, J)

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