

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10622 of 2015

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Mosmat Girja Devi & Ors

.... Petitioners

Versus

Ratneshwar Rai & Ors

.... Respondents

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Appearance :

For the Petitioners : Mr. Nand Kishore Singh, Advocate.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 27-04-2016

Heard learned counsel for the petitioners.

It appears that Title Suit No. 08 of 2013 was filed by the plaintiff-respondents in the Court below for declaration and title and recovery of possession of the suit property. The defendant filed written statement raising the question of valuation and it is alleged that the plaintiff has undervalued the suit to avoid payment of court fee. The valuation of the suit property is not less than two lacks rupees which is beyond the pecuniary jurisdiction of this Court. The Court below considered the submission of the parties and also referred the decision of Patna High Court and then rejected the application filed by the petitioner.

It is admitted fact that the question of valuation of the suit property is mixed question of law and fact. After amendment of the Code of Civil Procedure in the year 1976, the Court has the discretionary jurisdiction to decide even the issues of law only as

preliminary issue. The court is not bound to do so, therefore, the Court below rejected the application filed by the petitioners. In such circumstances, this Court cannot insist the Court below to decide the preliminary issue of valuation of the suit property after taking evidence.

Therefore, I find no reason to interfere with the impugned order passed by the Court below. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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