

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4306 of 2015

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Sheo Shambhu Nath Tiwari

.... Petitioner/s

Versus

Futun Pandey & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Mritunjay Narain

For the Respondent/s : Mr. Nasim Yahya- Gp13

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 11-03-2016

Heard learned counsel for the petitioner.

It appears that the plaintiff-respondents filed the suit for declaration of right and further for declaration that revisional survey entry with regard to suit property is wrong. The petitioner who is defendant in the Court below was added subsequently. The petitioner filed an application under Order 7 Rule 11 of the Code of Civil Procedure praying for dismissal of the suit on the ground that the suit is barred under the Bihar Public Land Encroachment Act.

By the impugned order, the Court below held that relief claimed by the plaintiff is for declaration of title and therefore the plaint cannot be rejected.

It may be mentioned here that plaintiff has not prayed for setting aside the order passed under Bihar Public Land Encroachment Act. The plaintiff has prayed for declaration of title

and for declaration that the revisional survey entry is wrong. In such circumstances, the Court below has rightly rejected the petition filed by the petitioner.

In view of the above finding of the Court below, I find no reason to interfere with the impugned order. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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