

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.554 of 2015

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Sri Deo Kumar Madhukar & Ors

.... Petitioner/s

Versus

Madhuri Devi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 01-03-2016

Heard the learned counsel, Mr. Kumar Alok for the
petitioners.

The petitioners have filed this application under Article
227 of the Constitution of India against the order dated 13.11.2014
whereby the Court below rejected the application filed by the
petitioners to direct the plaintiff to deposit ad valorem court fee on
the value of the property covered under the gift deed dated
21.01.1988 and while rejecting the application awarded cost of
Rs.2,000.

The Hon'ble Supreme Court in the case of **Sri
Rathnavarmaraja v. Smt. Vimla, AIR 1961 Supreme Court
1299** has held that "whether proper court-fee is paid on a plaint is
primarily a question between the plaintiff and the State. The
defendant who may believe and even honestly, that proper court-
fee has not been paid by the plaintiff has still no right to move the

superior courts by appeal or in revision against the order adjudging payment of court-fee payable on the plaint.”

In the present case, whether ad valorem court fee is payable or not is a question primarily between the plaintiff and the State and, therefore, it cannot be said that the petitioner is prejudiced in any way or that the order by which the application has been rejected occasioned failure of justice.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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