

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14618 of 2014

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Shri Ram Prasad S/o Late Ram Briksha Paswan @ Bhaggi Paswan Resident of
Mohalla Imaliyachak, P.S. Rampur, District Gaya.

.... Petitioner/s

Versus

Gulab Chand Paswan S/o Late Sahdeo Paswan @ Sadanand Paswan Resident of
Mohalla Gandhi Nagar, Dalhata, P.O. Basudeopur, P.S. Kotwali, District Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binayak Kumar Shrivastav, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-10-2016

Heard learned counsel for the petitioner.

By the impugned order the learned court below has turned
down the prayer on behalf of the defendant-petitioner for rejection of
the plaint under Order 7 Rule 11 C.P.C.

It has been submitted by learned counsel for the petitioner
that the suit is barred by limitation as well as the learned court below
where the suit has been filed lacks territorial jurisdiction to entertain
the suit. However, during the course of submission, learned counsel
for the petitioner has accepted that the question of limitation is the
mixed question of law and fact and further there is averment in the
plaint that the part of the transaction took place within the territorial
jurisdiction of the court.



After considering the submissions and perusal of the impugned order, it transpires that the learned court below has taken into notice the averments in the plaint and thereafter has come to the conclusion that the prayer for rejection of the plaint as made by the defendant is not tenable. This Court, in the backdrop of these facts, is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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