

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3323 of 2016

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Deo Sharan Mistri @ Deo Sharan Sharma & Anr

.... Petitioner/s

Versus

Saida Nagar Sahkari Grih Nirman Samiti

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ Manu

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 18-07-2016 Heard the learned counsel, Mr. Sanjay Kumar @ Manu, for the petitioner.

Perused the order dated 10.11.2015 passed by Sub Judge IV, Danapur in Title Suit No.354 of 2013 whereby the learned Court below refused to decide the question of maintainability of the suit under Order XIV Rule 2 CPC.

It appears that application under Order XIV Rule 2 CPC was filed by the petitioner which has been annexed with this writ application. The Court below after hearing the petitioner and perusal of the application recorded a clear finding that all the points which are being raised by the petitioner are question of fact.

According to Order XIV Rule 2 CPC, the questions which relates to the jurisdiction of the Court and that the suit is barred under any law then only the Court may decide the same as preliminary issue.

So far question of fact is concerned, it requires evidence then it should not be tried as preliminary issue. Therefore, the Court below has rightly rejected the application.

As such I find no reason to interfere with the impugned order. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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