

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7234 of 2015**

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Krishna Pandey & Anr.

.... .... Petitioner/s

Versus

Ramesh Kumar Tiwari

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Anurag Pandey

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR**  
**SAHOO**  
**ORAL ORDER**

2      01-04-2016      Heard the learned counsel for the petitioner.

The Court below by order dated 04.09.2014 passed in Title Suit No.252 of 2009 by Sub Judge IIIrd, Patna refused to decide the issue of maintainability of the suit as preliminary issue.

It appears that on the basis of Exhibit '1', the so called agreement, the plaintiff respondent filed suit for specific performance of contract.

Grievance of the petitioner is that it is not registered nor it can be said to be an agreement for sale. So far registration is concerned, it may be mentioned here in India, the agreement to sell even if it is oral, it is enforceable.

The Hon'ble Supreme Court in the case of *Aloka Bose Vs. Parmatma Devi AIR 2009 SC 1527* has held that '**all agreements of sale are bilateral contracts as promises are made by both**

**the vendor agreeing to sell and the purchaser agreeing to purchaser, it is not a valid contract. Even an oral agreement to sell is valid. If so, a written agreement signed by one of the parties, if it evidences such an oral agreement will also be valid. Moreover, in India, an agreement of sale signed by the vendor alone and delivered to the purchaser, and accepted by the purchaser, has always been considered to be a valid contract.'**

In view of the above settled proposition of law, I find no reason to interfere with the impugned order and, therefore, the Court below has rightly held the issue cannot be decided as preliminary issue.

Thus, this writ application is dismissed.

**(Mungeshwar Sahoo, J)**

Sanjeev/-

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