

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8519 of 2015

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1. Hassan Neyazi Son of Hassan Manzoor
2. Hassan Faizi Hashmi @ Hassan Faizi Son of Hassan Manzoor
3. Hassan Ejazi Son of Hassan Manzoor
4. Hassan Manzoor Hashmi Son of Late Moinuddin null
5. Hassan Shahin
6. Hassan Shahid Both son of Late Hassan Maqbool
7. Smt. Shamima Bano Wife of Late Hassan Maqbool All resident of
Mohalla - Khan Mirza, Police Station - Sultanganj, District - Patna

.... Petitioner/s

Versus

1. Arvind Kumar Mour Son of Late Ajay Kumar Maur resident of Mohalla
- Mour Lane, Police Station - Sultanganj, District - Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Atif Inam

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 12-04-2016 Heard Mrs. Atif Inam, learned counsel for the
petitioners.

This application under Article 227 of the Constitution
of India has been filed by the defendants- petitioners against the
order dated 19.05.2015 passed in Title Suit No. 71 of 2006 by Sub
Judge II, Patna, whereby the court below rejected the application
field by the defendants under Order 7, Rule 11(d) of the Code of
Civil Procedure.

It appears that the plaintiffs-respondents filed the
Suit for specific performance of contract. The defendants

appeared and filed application under Order 7, Rule 11(d) of the Code of Civil Procedure praying for rejection of the application on the ground that the Suit is barred and based on unregistered agreement under Section 53(A) of T.P. Act read with Section 17(1-A) of the Registration Act, the agreement cannot be enforced and as such the plaint is liable to be rejected.

By the impugned order, the court below has rejected the application holding that for specific performance of contract, the agreement is not required to be registered.

Learned counsel for the petitioners relied upon a decision of this Court in the case of Sri Ashok Goenka –v- Chandra Bhushan Singh, 2010(1) PLJR 317. In the said decision it has been held that the amendment of Registration Act is effective only for the purpose of Section 53(A) of the Transfer of Property Act. Ignoring this principle, the trial court in that case had granted injunction. In the present case we are not considering the injunction matter. The Suit has been filed for specific performance of contract. In India an agreement, which is even signed by one party can be enforced by filing a suit for specific performance of contract as held by the Supreme Court in the case of Aloka Bose –v- Paramata Devi, AIR 2009 SC 1527.

In view of the above facts and circumstances, I find

no reason to interfere with the impugned order.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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