

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15391 of 2014

- =====
1. Anandi Mandal S/o Late Baijnath Mandal
 2. Uma Shankar Mandal S/o Anandi Mandal Both Resident of Village
Purushottampur Kataria, P.O. Mai Dariyapur, P.S. Muffasil, District Munger.

.... Petitioner/s

Versus

Mahendra Narayan Singh S/o Late Saryug Singh Resident of Village + P.O.
Bhadaoura, P.S. Kharagpur, District Munger.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rekha Prasad, Adv.

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 26-10-2016

Heard Mrs. Rekha Prasad, learned counsel for the
petitioners.

By the impugned order the learned court below has
rejected the prayer made on behalf of the defendant-petitioners for
rejection of the plaint under Order 7 Rule 11 (D) C.P.C.

The petitioners have raised the objection that the suit was
barred under the provisions of Benami Transactions (Prohibition) Act
1988 as the plaintiff has prayed for declaration of his title over the suit
property asserting that he was the real purchaser of the said property
in the Benami name of the defendants. The learned court below after
considering the submissions has turned down the prayer on behalf of
the defendants.



Mrs. Prasad, learned counsel for the petitioners has fairly accepted the position after the decision in the case of **R. Rajagopal Reddy Vs. Padmini Chandrasekharan, 1995 (2) SCC 630** that the provision of the said Act would not be attracted in case a transaction prior to the coming into force of the Act.

After considering the submissions and in view of the stand on behalf of learned counsel for the petitioners on the basis of the aforesaid judgment, this Court is not inclined to invoke the jurisdiction under Article 227 of the Constitution of the India.

The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

U			
---	--	--	--

