

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4806 of 2014**

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Bal Krishna Agrawal

.... .... Petitioner/s

Versus

Bhola Mali & Ors

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ramashish

For the Respondent/s : Mr.

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

**ORAL ORDER**

2      22-01-2016      Heard the learned counsel, Mr. Birendra Singh, for the  
petitioner.

By the impugned order dated 12.09.2013 passed by Sub  
Judge VIth, Gaya in Title Suit No.42 of 2008 / 99 of 2008, the  
Court below has rejected the application filed by the petitioner  
under order 14 Rule 2 Clause (b) CPC for deciding the question of  
res judicata as preliminary issue.

From perusal of the impugned order, it appears that the  
Court below found that all the claims raised by the petitioner are  
questions of fact and therefore, at this stage, the same cannot be  
decided. Since the provision as contained in Order XIV Rule 2  
provides that the question of law can only be decided as  
preliminary issue and it is the discretion to the Court. The issue,  
i.e., res judicata herein is not a pure question of law which cannot

be decided as preliminary issue as such the learned Court below has rightly rejected the said application. Thus, no interference can be made in supervisory jurisdiction under Article 227.

Thus, this writ application is dismissed.

**(Mungeshwar Sahoo, J)**

Sanjeev/-

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