

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1367 of 2014

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Smt. Nitu Singh

.... Petitioner/s

Versus

Adalat Rai & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 06-01-2016

Heard the learned counsel for the petitioner.

The defendant-petitioner has challenged the order dated 16.08.2013 passed by Munsif III, Chapra in Title Suit No.48 of 2012 whereby the Court below rejected the application filed by the petitioner and held that the valuation and jurisdiction is not a pure question of law and cannot be decided as preliminary issue. The same shall be decided at the time of disposal of the suit.

Admittedly, the plaintiff-respondent filed the suit only for permanent injunction against the defendant. The defendant-petitioner filed application for raising question that the valuation of the suit is undervalued and that the Court fee paid is not proper. The Court below by the impugned order rejected the said application after recalling the earlier order.

The Hon'ble Supreme Court in the case of **Sri Rathnavarmaraja v. Smt. Vimla, AIR 1961 Supreme Court**

1299 has held that “whether proper court-fee is paid on a plaint is primarily a question between the plaintiff and the State. The defendant who may believe and even honestly, that proper court-fee has not been paid by the plaintiff has still no right to move the superior courts by appeal or in revision against the order adjudging payment of court-fee payable on the plaint.”

Here, admittedly, the suit has been filed for injunction only, therefore, the Court below has rightly rejected the application after recalling the earlier order.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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