

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.733 of 2016

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Jeera Devi

.... Petitioner/s

Versus

Leela Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabi Bhushan Prasad No. 1

For the Respondent/s : Mr. Sc3-Syed Arshad Alam

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 23-02-2016

Heard learned counsel Mr. Rabi Bhushan Prasad for the petitioner and learned counsel Mr. Mahtab Alam, A.C. to S.C.3, on behalf of State authority.

By the impugned order dated 14.09.2015, learned Sub-Judge-II, Nalanda, Bihar Sharif rejected the application filed by the defendant-petitioner under Order VII Rule 11 (a)(d) of the Code of Civil Procedure in Title Suit No. 85 of 2012.

It appears that the plaintiff-respondent filed the aforesaid title suit praying for relief that the order passed by the Circle Officer in Money Lenders Case No. 1 of 2010 dated 20.07.2011 and the order dated 09.12.2011 passed by the D.C.L.R in Money Lenders Appeal No. 1 of 2011 are without jurisdiction and also prayed for further relief. The defendant filed contesting written statement and then application under Order VII Rule 11 (a)(d) was filed on the ground that the suit is barred under Section

12 of the Bihar Money Lenders Act and that the plaintiff has no cause of action to file the suit. By the impugned order, the Court below has rejected this application.

Perused the plaint. From perusal of the plaint, it appears that the plaintiff has prayed for relief that the order passed by the Circle Officer and D.C.L.R is without jurisdiction. So far this relief prayed by the plaintiff is concerned, it can be decided only by the Civil Court. So far the second objection by the defendant that the plaintiff has no cause of action is concerned, it may be mentioned here that on this ground the plaint cannot be rejected. Order VII Rule 11(a) of the Code of Civil Procedure provides that the plaint can be rejected only, if from perusal of the plaint, it appears that the plaint does not disclose cause of action.

In view of the above facts and in my opinion, the Court below has rightly rejected the application under Order VII Rule 11 (a)(d) of the Code of Civil Procedure.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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