

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1095 of 2016

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Gulabi Yadav

.... Petitioner/s

Versus

Balmiki Prasad Yadav & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabi Bhushan

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 11-03-2016

Heard the learned counsel, Mr. Pramod Kumar Singh
for the petitioner.

The learned Munsif, Lakhisarai by the order dated 05.08.2015 rejected the application filed by the petitioner for deciding the issue regarding payment of court fee on the valuation of the sale deed of the petitioner. The Court below rejected the prayer on the ground that the plaintiff has not prayed for setting aside the sale deed rather the relief has been claimed to the effect that the sale deed in favour of the petitioner is not binding on the plaintiff.

It is settled principles of law that the valuation of the suit will be governed by the relief claimed and not by the statement made in the plaint. In this matter, reference may be made to the decision of the Supreme Court, **AIR 2002 Supreme Court 233.**

This Court also in a decision reported in **2006(4) PLJR 443** has held that when there is prayer for declaration only and no prayer has been made for cancellation of the sale deed, the plaintiff is not required to pay the ad valorem court fee.

Moreover, in the present case, the matter relating to payment of ad valorem court fee or non-payment therein is between the plaintiff and the State and, therefore, there is no question of any prejudice to the petitioner arises. Reference may be made to the decision of the Supreme Court **AIR 1961 Supreme Court 1299**.

In view of the above settled proposition of law, I do not find any reason to interfere with the impugned order. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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