

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8040 of 2014

=====

Baban Singh

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sushmita Mishra

For the Respondent/s : Mr. P.K. Verma

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 27-01-2016 1) Heard the learned counsel, Ms. Sushmita Mishra, for the petitioner and the learned counsel, Mr. Saroj Sharma, A.C. to AAG 5.

2) The learned Subordinate Judge Vth, Bhabhua by order dated 04.01.2014 passed in Title Suit No.252 of 2003 rejected the application filed by the petitioner under Order VII Rule 11(d) CPC.

3) The application under Order VII Rule 11(d) CPC has been annexed as Annexure '5' to the writ application. From perusal of the aforesaid application, it appears that the only ground raised therein is that since there has already been decision between the parties regarding the controversy by the Consolidation Officer which was confirmed up to the Supreme Court, the present suit is barred by law of res judicata.

4) At the time of hearing in admission matter, the learned counsel for the petitioner admitted the fact that the State authorities have filed separate application under Section 4(c) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 which is still pending.

5) Since the plaintiff respondent have filed the suit for declaration of title, it cannot be said that the plaint is liable to be rejected under Order VII Rule 11(d) as the question of res judicata is not a bar created by any law. It is only a rules of procedure.

6) In such view of the matter, the impugned order needs no interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

U		T	
---	--	---	--