

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4035 of 2014

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1. Pitambar Mishra Son Of Late Rameshwar Mishra Resident Of Village-
Mathurapur, P.O.- Mathurapur, P.S.- Gogri, District- Khagaria

.... Petitioner/s

Versus

1. Tarakant Thakur Son Of Late Srikant Thakur
2. Nityanand Thakur Son Of Late Kamlakant Thakur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Choudhary

For the Respondent/s : Mr.

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

ORAL ORDER

2 14-01-2016 Heard Mr. Anil Kumar Choudhary, learned counsel
appearing for the petitioner.

The learned Munsif, Khagaria in Title Suit No. 45 of
2004, by the impugned order dated 20.08.2013, rejected the
application filed by the defendant-petitioner under Order 7 Rule
11 of the C.P.C.

From perusal of the order and the statements made in
the writ application, it appears that the plaintiffs-respondents filed
the aforesaid suit against the defendant. The defendant filed
contesting written statement. Issues were settled and both the
parties adduced their evidences. From perusal of the impugned
order, it also appears that the case is at the final stage between the
parties. At his stage, an application under Order 7 Rule 11 C.P.C.

was filed by the defendant-petitioner before the court below, which has been rejected by the court below by the impugned order.

From perusal of the application under Order 7 rule 11 C.P.C., it appears that only objection raised by the petitioner herein is to the effect that the suit is not maintainable. So far this suit or objection under Order 7 Rule 11 C.P.C. is concerned, in my opinion, none of the Clauses mentioned is applicable and the question as to whether the suit is maintainable or not, this is a matter that can only be decided at the final stage of the suit and admittedly, the suit is at the final stage, and the court below has rightly rejected the application of the petitioner.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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