

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16685 of 2014

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Bir Bahadur Mahto

.... Petitioner/s

Versus

Kedar Nath Choudhary

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nirmal Kumar Shrivastava

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

- 2 04-01-2016 1. Heard the learned counsel for the petitioner on the interlocutory application No.1052 of 2015.
2. At the time of hearing of this interlocutory application, the learned counsel for the petitioner submitted that the writ application may be heard on merit in admission matter. Accordingly, I heard him on merit in admission matter.
3. By the order dated 11.04.2014, the learned Munsif-II, Begusarai rejected the petitioner's application seeking leave to file a document, i.e. certified copy of the registered sale deed in Title (Eviction) Suit No.10 of 2009.
4. It appears that the plaintiff respondent filed Eviction Suit No.10 of 2009 against the defendant petitioner for eviction. The defendant denied the relationship of landlord and tenant.
5. It further appears that application was filed by the



defendant petitioner for permission to produce registered sale deed dated 19.03.1979. The plaintiff respondent filed objection. By the impugned order, the Court below rejected the prayer recording a finding that the subject matter of the eviction suit from which the plaintiff is praying for eviction of the defendant is different and the subject matter of registered sale deed is different and, therefore, the sale deed is not relevant in the suit. The learned counsel for the petitioner submitted that in the sale deed, the plot number and khata number has been wrongly described and in fact the subject matter of sale deed is the same which is the subject matter of eviction suit and in fact on the basis of the registered sale deed, the defendant petitioner is the owner of the property.

6. Perused the order passed by the Court below. The Court below found that the sale deed dated 19.03.1979 which is sought to be exhibited is with respect to khata No.182 plot No.813 and 814 whereas the plaintiff has filed the suit for eviction from plot No.815 in khata No.243 measuring 8 dhur only and, therefore, the sale deed is not relevant at all and, therefore, has rejected the application.

7. In view of the above finding of the Court below, the question of title or mistake of typing of this plot numbers cannot

be gone into in this eviction suit in view of the decision of Hon’ble Supreme Court reported in *AIR 2002 SC 136 Rajendra Tiwary Vs. Basudeo Prasad* wherein the Supreme Court has held that ‘**the scope of the enquiry before the Court was limited to the question as to whether the grounds for eviction of the defendant have been made out under the Act. The question of title of the parties to the suit premises is not relevant having regard to width of the definition of the terms ‘landlord’ and ‘tenant’.**’

8. In view of the above settled proposition of law and the finding of the Court below regarding no relevancy of the sale deed, the impugned order cannot be interfered with in supervisory jurisdiction under Article 227 of the Constitution of India as the Court below has rightly acted within its jurisdiction.

9. In the result, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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