

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.550 of 2016**

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Md.abidullah

.... .... Appellant/s

Versus

Deepak Kumar Singh & Anr

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Rai Mukesh Sharma

For the Respondent/s : Mr.

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

2      06-09-2016      Heard the learned counsel, Mr. Anil Kumar Jha, for the  
petitioner.

It appears that the plaintiff filed the suit for declaring as to who is the landlord of the plaintiff. Injunction application was filed praying for restraining the defendant second party from interfering with the peaceful running of business of the plaintiff petitioner. The defendant second party appeared and filed reply to the injunction application claiming that in fact he is the real owner of the property and earlier there was agreement, i.e., Kirayanama between the plaintiff himself. The trial Court after hearing the parties recorded clear finding that the plaintiff has got no prima facie case nor balance of convenience in his favour nor he shall suffer serious loss or irreparable injury.

It may be mentioned here that now there is dispute between the defendant first party and defendant second party. The plaintiff

thereafter filed appeal before the lower appellate Court. The lower appellate Court also recorded clear finding that the plaintiff has got no prima facie case for the grant of mandatory injunction.

In view of the above findings of both the Courts below, this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India cannot substitute its own finding for the purpose of supervising the orders passed by both the Courts below. However, it is made clear that if any observation on merit is made while disposing of the injunction application, the same shall not operate as res judicata or the same shall not prejudice any party at the time of trial of the suit.

In view of the above facts and circumstances of the case, I do not find any merit and accordingly, this Civil Misc. application is dismissed.

**(Mungeshwar Sahoo, J)**

Sanjeev/-

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