

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1096 of 2016**

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Md. Asfaqur Rahman & Anr

.... .... Petitioner/s

Versus

Md. Salam & Ors

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Md. Rahmatullah

For the Respondent/s : Mr.

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

ORAL ORDER

2      17-02-2016      1.            Heard the learned counsel, Mr. Md. Rahmatullah, for the petitioner.

2.            The plaintiff filed the suit for a declaration of his title and for declaration that the defendants are trespasser and further the plaintiff prayed for recovery of possession. The defendant filed written statement denying the allegation of the plaintiff and they can claim themselves to be the owner of the plaintiff. Thereafter, injunction was filed by the plaintiff in the trial Court. The trial Court after hearing the parties on the basis of the pleadings and the materials available on record recorded clear finding that the plaintiff has got no prima facie case nor balance of convenience is in his favour nor the plaintiff shall suffer irreparable loss and injury. Accordingly, the injunction was rejected. The petitioner filed Misc. Appeal before the lower appellate Court. The lower appellate Court after applying its

independent judicial mind recorded finding that the plaintiff has got no prima facie case and the balance of convenience is also in favour of the plaintiff appellant and accordingly dismissed the Misc. Appeal.

3. From perusal of the order passed by both the Courts below, it appears that the orders cannot be said to be the irrational order or that the Court below passed the order afresh without applying judicial mind.

4. The Hon'ble Supreme Court in the case of *Jai Singh and others vs. Municipal Corporation of Delhi and another* 2010 (9) SCC 385 has held that “the supervisory jurisdiction under Article 227 of the Constitution of India cannot be exercised like a ‘Bull in a China shop’ to correct all errors of Judgment of a Court or tribunal acting within the limits of the jurisdiction.” In the present case, therefore, when this Court is exercising jurisdiction under Article 227 of the Constitution of India, the findings recorded by the Courts below on the basis of materials cannot be interfered with. Therefore, I find no reason to interfere with the impugned order.

5. Thus, this writ application is dismissed.

Sanjeev/-

(Mungeshwar Sahoo, J)

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