

**IN THE HIGH COURT OF JUDICATURE AT
PATNA**

CIVIL MISCELLANEOUS JURISDICTION No.176 of 2017

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Ranjeet Kumar @ Ranjit Kumar Purbey

.... Appellant/s

Versus

Rameshwar Prasad Yadav & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jagdhar Prasad

For the Respondent/s : Mr.

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

ORAL ORDER

2 02-02-2017 Heard the learned counsel Mr. Bajarangi Lal for the
petitioner.

Perused the impugned order dated 11.08.2016 passed by
the learned Munsif, Rosera in Title Suit No. 03 of 2011, whereby the
learned Munsif has rejected the application filed by the petitioner
under Order 7 Rule 11 CPC read with Section 11 of the Code of
Civil Procedure.

Learned counsel Mr. Bajarangi Lal for the petitioner
submitted that the present suit is barred by the principles of res
judicata. Earlier the suit had already been decided between the
parties with respect to the subject-matter, but the plaintiff has
suppressed this fact and has filed the present suit. The defendants in
the written statement have clearly raised the question of res judicata.
Therefore, under Order 7 Rule 11(d), the court below should have



decided the question of res judicata and should have rejected the
plaint.

The Hon'ble Supreme Court in the case of **P.V. Guru Raj Reddy Vs. P. Neeradha Reddy & ors.** reported in **2015 (8) SCC 331** at **paragraph 5** has held that **rejection of the plaint under Order 7 Rule 11 of the CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order 7 Rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that have to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order 7 Rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial.**

Thus, in view of the settled provision of law, I do not find reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this civil misc. application is dismissed.

(Mungeshwar Sahoo, J.)

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