

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Revision No.75 of 2016**

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Bir Bijay Bikas Singh & Ors

.... .... Petitioner/s

Versus

Bullet Singh & Ors

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Prabhat Ranjan Singh

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**

**ORAL ORDER**

3      30-03-2017      Heard learned counsel for the petitioners.

By the impugned order the learned court below has turned down the prayer for rejection of the plaint under order VII Rule 11 CPC.

From the materials on record, it is apparent that the suit has been filed by the plaintiff-opposite parties for declaration that the gift deed dated 07.07.2012 executed by the defendant 2<sup>nd</sup> set in favour of defendant 1<sup>st</sup> set is illegal. The petitioners are defendants in the suit filed by the plaintiffs and have made the prayer for rejection of the plaint on the ground that the plaintiff's claim in the suit is factually wrong. By the impugned order, the learned court below has turned the prayer of the petitioner.

Learned counsel for the petitioners has contended that the plaintiffs are the strangers to the family of Mahendra Singh and, therefore, the suit filed by them is not maintainable as they



have no cause of action for the suit.

After considering the submission and perusal of the impugned order it is evident that the prayer for rejection of the plaint has been made on the basis of the facts which are yet to be established in that suit by evidence. A plaint cannot be rejected on the basis of disputed question of facts. This Court does not find that the learned court below has committed error of jurisdiction in turning down the prayer as made on behalf of the petitioners.

Accordingly, the revision application is dismissed. However, this order shall not prejudice in any manner the entitlement of the petitioners to raise objection in the suit in accordance with law at appropriate stage.

**(V. Nath, J.)**

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