

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.275 of 2016

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Anandi Tanti son of Bikau Tanti resident of Village/ Mohalla- Gangjala Ward No 17, Police Station and District Saharsa.

.... Appellant/s

Versus

1. Ramdeo Das s/o Late Dhano Das
2. Smt. Reeta Devi W/o Ramdeo Das.
3. Chandan Kumar S/o Ramdeo Das All are resident of Village- Sitamabad, Tola Mohammad Ali, P.O and P.S. Bakhtiyarpur Dist. Saharsa at present residing in Saharsa Pashupalan colony Saptiyahi Toward West to Saharsa Post Office and P.S and District- Saharsa.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kumar Vishoka Nand, Adv.

For the Respondent/s : Mr. Anand Kumar No. 1, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 13-04-2017

Heard learned counsel for the parties.

By filing this application under Article 227 of the Constitution of India the plaintiff-petitioner has questioned the legal sustainability of the impugned order dated 27.08.2015 passed in T.A. No. 19 of 2010 by which the appeal filed by the plaintiff-petitioner has been dismissed holding that there is no merit in this title appeal.

The matrix of facts discloses that the plaintiff-petitioner filed T.S. No. 305 of 2009 praying for a decree for specific performance of contract against the defendants for sale of the suit land



in favour of the plaintiff. The suit was, however, dismissed at the admission stage by order dated 07.04.2010 holding that in absence of any deed of agreement having been filed on behalf of the plaintiff the very basis of the suit was lacking and the plaintiff had no cause of action for the suit. The plaintiff-petitioner thereafter filed the civil revision application against the said order before this Court. From annexure-3 of the present application, it transpires that the office raised objection to the maintainability of the civil revision application against the order dated 07.04.2010 passed in the suit. It is not disputed on behalf of the petitioner that after the office objection, the said civil revision application was re-filed by the petitioner for consideration by the court.

The peculiar submission has been made by the learned counsel for the petitioner that the petitioner accepted the said office objection as the order of this Court and thereafter filed the Title Appeal No. 19 of 2010 before the court of district judge against the judgment and order dated 09.04.2010. However, from the perusal of the impugned order dated 27.08.2015, it transpires that the appellate court below has affirmed the order passed by the learned court below and dismissed the appeal holding the same to have no merit. In the aforesaid factual background, this Court is not inclined to exercise its jurisdiction under Article 227 of the Constitution of India for interdicting the impugned



order.

The present application is, accordingly, dismissed.

However, the dismissal of this application shall not prejudice the legal remedies available to the petitioner if permissible under law and the same shall be dealt with in accordance with law on its own merit.

(V. Nath, J)

Devendra/-

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