

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.39 of 2016

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1. Dhirendra Kumar S/O- Late Ramkirpal Chaudhary
 2. Ganesh Ram Chaudhary S/O- Late Basudeo Chaudhary
 3. Bhusan Chaudhary S/O- Late Bhola Chaudhary All are residents of Village- Mehsauri, P.S.-Muffasil, District- Khagaria.

.... Petitioners

Versus

1. Sadan Prasad Singh S/O- Late Mukundi Prasad Singh Resident of Village- Mehsauri, P.S.-Muffasil, District- Khagaria.
2. Rajesh Chaudhary S/O- Late Hareram Chaudhary
3. Deoniti Prasad Singh S/O- Late Chandar Prasad Singh
4. Munna Prasad Singh S/O- Lalo Prasad Singh
5. Massomat Krishna Devi W/O- Late Yogendra Prasad Singh @ Gholtu Singh All residents of Village- Mehsauri, P.S.-Muffasil, District- Khagaria.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Rakesh Chandra
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 07-03-2017

Heard Mr.Rakesh Chandra, learned counsel for
the petitioners.

The present revision application has been filed by
the petitioners against the order by which the learned court below has
dismissed the petition filed by the petitioners under Order 7 Rule 11
(a) C.P.C praying for rejection of plaint.



The learned counsel for the petitioners has submitted that even on the own pleadings of the plaintiff as made in the plaint, it will be apparent that the plaintiff has got no title over the suit property and as such he has no cause of action for filing the suit. It has, therefore, been contended that the learned court below has wrongly declined to reject the plaint.

After considering the submissions and perusal of the materials on record including the impugned order, it is apparent that the main plea of the defendant for rejection of plaint is that the plaintiff has got no cause of action for filing the suit. The distinction between absence of cause of action and non-disclosure of cause of action as a ground for rejection of plaint is no more *res integra*. The learned counsel for the petitioners has submitted that the cause of action is a bundle of facts and therefore the distinction between non-disclosure of cause of action and the absence of cause of action for the purpose of rejection of plaint should not be over emphasized. This Court is not inclined to accept the aforesaid contention on behalf of the petitioners for the purpose of rejection of plaint under Order 7 Rule 11 (a) C.P.C. The averments made in the plaint are to be accepted is correct and it is only when the court is convinced that the suit is doomed to fail that the extreme major of rejection of plaint can be resorted to. This Court does not find that the learned court below has



committed error of jurisdiction or material irregularity in passing the impugned order.

This revision application is accordingly dismissed.

(V. Nath, J)

Nitesh/-

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CAV DATE	
Uploading Date	
Transmission Date	

