

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23168 of 2013

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Rajwanti Devi & Ors

.... Petitioner/s

Versus

Sri Vinod Sao & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 11-10-2017 Heard the learned counsel, Mr. Arun Kumar for the
petitioners.

This writ application has been filed under Article 227 of the Constitution of India for setting aside the order dated 29.08.2013 passed by learned Munsif, Lakhisarai in Title Suit No.12 of 2011 whereby the learned Munsif has rejected the application filed by the defendants-petitioners for calling for the records of original complaint petition No.342(c) of 2011 pending in the Court of J.M., Lakhisarai and information petition No.638 of 2011 from the Court of learned C.J.M., Lakhisarai.

The learned counsel for the petitioners submitted that the plaintiffs-respondents have filed the suit for declaration of title and for setting aside the registered sale deed executed by the plaintiffs in favour of the defendants-petitioners on the ground that full consideration amount has not been paid by the defendants-



petitioners to the plaintiffs-respondents. According to the learned counsel, in fact, the Chirkuit was handed over by the plaintiffs to the defendants after payment of full consideration amount and the defendants-petitioners withdrew the sale deed from the Registry office but then subsequently the plaintiffs committed theft of the sale deed and other materials, therefore, the petitioners have filed complaint case alleging that the sale deed has been stolen away and so far other information case is concerned, *sanha* has been filed. Therefore, for deciding the question as to whether the sale deed was received by the plaintiffs or by the defendants, the complaint case is necessary.

From the submission of the learned counsel for the petitioners, it appears that original sale deed is not available with the defendants-petitioners. The evidence has not yet started in the suit. So far criminal case is concerned, it is not admissible in view of Section 41, 42 and 43 of the Evidence Act. Moreover, the controversy between the parties in the suit is whether the defendant has paid the full consideration amount or not and for deciding this question what is the allegation in the complaint is not at all relevant. Now therefore, the learned trial court has rightly rejected the application for calling for either the complaint case or the *sanha* as those documents are not at all relevant for deciding



the controversies between the parties.

Thus, in my view, no case for interference in exercise of supervisory jurisdiction is made out and accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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