

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24944 of 2013

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1. Brajkishore Rai @ Brajkishore Ray, Son Of Late Julumdhari Rai, Village - Bhagwanpur, P.S. Awatarnagar, District - Saran (Chapra)

.... Petitioner/s

Versus

1. Nageshwar Rai, Son Of Late Kalash Rai, Village - Bhagwanpur Pargana Goa, P.S. - Dariyapur, At Present Awatarnagar, District - Saran (Chapra)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kishor Singh, Advocate
Mr. Amit Kumar Singh, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 07-12-2017 The present writ application has been filed for setting aside the order dated 19.10.2013 passed by learned Subordinate Judge-I, Saran at Chapra in Title Suit No.797 of 2012 whereby and whereunder the petitioner's application filed under Order 39 Rule 2 of C.P.C. was rejected.

2. Heard learned counsel for the petitioner and perused the record.

3. The petitioner is plaintiff of the aforesaid title suit, which was filed for declaration that the sale deed dated 30.08.2012 executed by him in favour of respondent is void and ineffective document. He further sought relief for declaration of his title and confirmation of possession. It appears that the plaintiff-petitioner executed a sale deed in favour of respondent on 30.08.2012 with



respect to 5 katha 14 dhoor 13 dhoorki land for a total consideration of Rs.4, 95,000/-.

4. The contention of learned counsel for the petitioner is that the consideration amount was to be paid after execution of sale deed at the time of handing over registration receipt. The respondent did not pay the amount and thereby committed fraud. The defendant-respondent did not acquire any right, title or possession on the basis of said sale deed. The petitioner filed a petition before the court below praying therein to restrain the defendant from taking possession over the suit property. The court below after hearing both sides dismissed the injunction petition.

5. The photostat copy of the sale deed has been annexed with the writ application. On perusal of said deed, I find that the petitioner had executed the document for amount of Rs.4, 95,000/- and signed the said document after going through its contents. The recital of the document shows that the petitioner had already received the entire consideration money before executing the document and admitting its registration before Sub-registrar. The court below while rejecting the injunction petition has observed that the moot question to be decided in the suit is as to whether money was paid to the plaintiff or not. The court below did not find prima facie case and accordingly rejected the injunction



petition filed by the petitioner and fixed the case for settlement of issues.

6. In view of above facts and circumstances, I find that the court below has not committed any illegality while rejecting the injunction petition.

7. This writ application is devoid of merit and is, accordingly, dismissed.

(Sanjay Kumar, J)

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