

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.206 of 2017**

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Rajendra Singh

.... Petitioner/s

Versus

The State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vinay Mistry

For the Respondent/s : Mr. Gyan Prakash Ojha- Ga7

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 04-02-2017 This application has been filed under Article 227 of the Constitution of India praying for issuance of a writ in the nature of mandamus directing the learned Sub Judge V, Patna to dispose of Title (Eviction) Suit No.64 of 2010.

Surprisingly, when this civil miscellaneous application was called on for hearing in admission matter, the learned counsel for the petitioner submitted that how this matter has been listed before this court, he is not understanding as the matter relates to issuance of mandamus which should be heard by another Bench according to roster.

In view of the submission of the learned counsel for the petitioner, it appears to me that the intention of the petitioner is malafide and the relief for writ of mandamus has been claimed with a view to avoid this court although, the application has been filed under Article 227 of the Constitution of India relating to the Civil Courts matters which are to be listed before this Bench



according to roster made by Hon'ble the Chief Justice.

The Hon'ble Supreme Court in the case of **Shalini Shyam Shetty and another v. Rajendra Shankar Patil, (2010) 8 Supreme Court Cases 329** has held that High Court never issues writ under Article 227 of the Constitution of India.

According to the decision of the Supreme Court in the case of **Radhey Shyam and Ors. vs. Chhabi Nath and Ors., (2015) 5 Supreme Court Cases 423**, the Civil Courts are not amenable to writ jurisdiction while dealing with civil matters. So far maintainability of application under Article 227 of the Constitution of India is concerned, it is maintainable, if an order passed by the Civil Courts against which revision is not maintainable nor appeal is maintainable. In the present case, no such order has been challenged. Now therefore, in judicial side exercising supervisory jurisdiction, the High Court cannot issue writ of mandamus.

Therefore, this civil miscellaneous application is not maintainable for the relief claimed under Article 227 of the Constitution of India. Accordingly, it is dismissed.

(Mungeshwar Sahoo, J)

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