

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9164 of 2013

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Man Mohan Singh@ Phucho Singh

.... Petitioner/s

Versus

Smt. Kumari Kabita Sinha @ Kabita Jamaiyar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 09-08-2017

1. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. This application under Article 227 of the Constitution of India has been filed by the defendant-tenant petitioner for setting aside the order dated 14.03.2013 passed by Sub Judge I, Khagaria in Title Eviction Suit No.2 of 2011 whereby the learned Sub Judge rejected the application filed by the tenant petitioner to stay the further proceeding of eviction suit during the pendency of the title suit No.89 of 2011 filed by the petitioner for specific performance of contract.

3. From perusal of the impugned order, it appears that the Court below after considering the various decisions of the High Court and also considered in the case of both the parties has



rejected the application filed under Section 10 of the Code of Civil Procedure.

4. It is settled law that in suit for specific performance, the question to be decided is whether the plaintiff is entitled to a decree for specific performance or not whereas in eviction suit the question to be decided is whether there is relationship of landlord and tenant between the parties or not or whether any of the ground on which the eviction suit have been filed by the plaintiff exist or not.

5. Therefore, the issues involved in both the suits are different. As such the learned Court below has rightly rejected the application. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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