

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.26 of 2016

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Manik Chand Das @ Manik Das, Son of Late Umakant Das, Resident of Uttar Tegharia, P.O.-Khikhirtola, P.S.-Chakulia, District-Uttar Dinajpur (West Bengal).

.... Petitioner.

Versus

Bulet Kumar Bhagat, Son of Late Bishanu Chandra Bhagat, Resident of Poorubpali, behind Dairy Form, P.O. & P.S.-Kishanganj, District-Kishanganj.

.... Opposite Party.

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Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha, Adv.

For the Opposite Party: Mr. S.P.Sah, Adv.

Mr.Dhirendra Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-03-2017

Heard the learned counsel for the petitioner and
the learned counsel for the opposite party.

The present revision application has been filed
challenging the impugned order by which the learned court below has
turned down the prayer of the defendant for rejection of plaint by
exercising the jurisdiction under Order 7 Rule 11(d) C.P.C.

The learned counsel for the petitioner has
submitted that the suit for specific performance of contract has been
filed by the plaintiff on the basis of oral agreement for sale and
therefore in view of the provision as contained in Section 17(1) (A) of
the Registration Act the suit is not maintainable. It has been therefore
contended that the learned court below has erred in law in refusing to
reject the plaint as prayed by the defendant.



After considering the submissions and perusal of the impugned order, it is apparent that the suit for specific performance of contract has been filed by the plaintiff on the basis of oral contract alongwith consequential reliefs. The basis of the prayer made by the defendants is not supported by the provisions of the Registration Act or in any view of the matter the provisions of the Registration Act do not bar the institution of a suit. It is well settled that while considering the issue of rejection of plaint, the averments therein are only to be noticed without any addition or subtraction. This Court does not find that the learned court below has committed any error of jurisdiction or material irregularity in rejecting the prayer of the defendant.

The revision application is devoid of merit and is accordingly dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2017
Transmission Date	

