

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.249 of 2016

IN

Civil Writ Jurisdiction Case No. 223 of 2016

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Md. Kaide Azam, Son of Md.Wali Azam, Resident of Mohalla-Lal Kothi, P.S.-Danapur, District-Patna, at present Ramjaipal Nagar Nasriganj, P.S.-Danapur, District-Patna.

.... Petitioner

Versus

Md. Afroz Alam, Son of Md. Makbul Hussain, Resident of Mohalla-Danapur Daldali Road, P.S.-Danapur, District-Patna.

.... Opposite Party.

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Appearance :

For the Petitioner/s : Mr. Manoranjan Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 13-02-2017

Heard Mr.W.Rahman, learned counsel appearing on behalf of the petitioner and Mr. Partha Sarthi, learned counsel appearing on behalf of the sole opposite party.

The parties have been heard on merits as well while considering the petition (I.A.No.9015/2016) praying for condonation of delay.

After hearing the parties, the delay is condoned.

By the impugned order, the learned court below has turned down the prayer of the defendant in the suit, for rejection of plaint under Order 7 Rule 11 (a) C.P.C. The defendant asserted in the court below that the plaintiff had no cause of action for filing the suit.



The learned court below, after considering the facts and circumstances as well as submissions, has come to the conclusion that the plea of the defendant, as the basis for rejection of plaint, has no merit and accordingly has passed the impugned order, rejecting the prayer.

After considering the submissions by the learned counsel for the petitioner and the facts and circumstances of the case, this Court comes to the conclusion that the learned court below has not committed any error of jurisdiction or material irregularity in passing the impugned order in view of the well settled position in law that there is distinction between the non-disclosure of a cause of action and absence of cause of action as envisaged under Order 7 Rule 11 (a) C.P.C.

As such, the present revision application, sans merit, is accordingly dismissed.

(V. Nath, J)

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