

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9082 of 2013

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Rambha Devi Wife Of Daya Nand Sah Resident Of Village - Kasbey
Aahar, P.O. And P.S. Tajpur, District - Samastipur

.... Petitioner

Versus

Ram Ishwar Sah Son Of Late Mishri Lal Sah Resident Of Village -
Motipur, P.O. And P.S. Tajour, District - Samastipur

.... Respondent

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Appearance :

For the Petitioner : Mr. Abdul Manan Khan, Advocate
Mr. Binay Kumar, Advocate
Mr. Md. Najmul Hoda, Advocate.

For the Respondent : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 03-01-2018 This application has been filed to quash the order dated 20.02.2013 passed by learned Sub Judge-Ist, Samastipur whereby and whereunder the learned Sub Judge rejected the petition filed by the petition under order 7 Rule 11 of the CPC.

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

3. It appears that the respondent filed Title Suit No.218 of 2011 for redemption of mortgage and also for damages by way of compensation at the rate of Rs.1,000/- per day. The respondent(plaintiff) valued the suit property at Rs.4,50,000/- which was the mortgage money. The plaintiff deposited court fee over the said amount and prayed for redemption. The respondent



further sought relief for damage/compensation at the rate of Rs.1,000/- per day on account of unlawful occupation of mortgage property. The court below on being satisfied with the valuation made in the plaint has rejected the petition filed by defendant(petitioner) under order 7 Rule 11 of the CPC. The matter of assessing the valuation is between the plaintiff and the court and the court below on being satisfied has accepted the court fee and admitted plaint. The matter of valuation as raised by defendant is mixed question of law and this issue can be decided in a full-fledged trial.

4. In view of the above, I do not find any merit in this application. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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