

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21523 of 2014

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Md Jamil Deebaji son of Late Md. Jalil Deebaji resident of Shalimar Apartment,
Near Chappul Mango, P.S. Mango, District - Jamshedpur

.... Petitioner/s

Versus

1. Aminul Haque son of Late Isradul Haque
2. Waizul Haque son of Late Isradul Haque
3. Ainul Haque son of Isradul Haque
4. Imran son of Late Mobinul Haque
5. Najama Khatoon wife of Late Mobinul Haque
6. Eshenul Haque son of Late Maixul Haque All are resident of Utarwari Mohalla
Under Municipal Ward No. 3, P.O. + P.S. Sherghati, District - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 25-06-2018

Petitioner before this Court is defendant of Title Suit No.04 of 2014 pending in the Court of Munsif, Sherghati, Gaya. He has filed this application for quashing the order dated 22.10.2014 whereby and whereunder the prayer to dismiss the suit on the ground of lack of pecuniary jurisdiction of the Court was rejected.

2. Heard learned counsel for the petitioner and the respondents.

3. It appears that the respondents (plaintiffs) filed the aforesaid suit for declaration of their right and title over the suit land and house. The suit has been valued at Rs.30,000/- and plaintiffs have deposited declaratory court fee of Rs.250/-. The defendants appeared and filed written statement denying the claim of the plaintiffs. The petitioner



filed a petition alleging inter-alia that the suit property has neither been properly valued nor ad volerum court fee has been paid. The trial before the court below has already commenced and plaintiffs have also examined some of the witnesses. The court below while rejecting the petition of the petitioner has observed that the plaintiffs and defendant have sold same land to respective parties after filing of the suit and on the basis of valuation in the deeds the petitioner wants to get the matter decided as preliminary issue. The court below relying on decision of this Court referred in 2013 PLJR has rejected the petition holding that issue of jurisdiction cannot be decided as preliminary issue. The issues involved in the present suit requires consideration of evidence and the issue involves mixed question of law and fact. The claim of the defendant is based on valuation given in two sale deeds which were executed during the pendency of the suit.

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

B.Kr./-

(Sanjay Kumar, J)

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

