

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1909 of 2017**

1. Rakesh Kumar Jaiswal
2. Sujeet Kumar Jaiswal Both sons of Sri Sitaram Jaiswal resident of Mohalla Mansa Ram Ka Akhara, Police Station Mehdiganj, Patna City, District - Patna.

... .. Defendants 2nd Set Petitioners

Versus

1. Jai Prakash Pandit son of Late Ram Chandra Pandit resident of Mohalla Devi Asthan, Mansaram Ka Akhara, P.O. Jhauganj, Patna City Police Station Mehdiganj, District – Patna.

... ..Plaintiff-Opposite Party

2. Mostt. Sudha Devi Wife of Late Rameshwar Pandit
3. Rakesh Pandit
4. Hitesh Pandit Both sons of Late Rameshwar Pandit, All residents of Mohalla Prasad Bhawan 32/4/I.D., Chandi Ghosh Road, Kolkata.

... .. Defendants 1st Set-Opposite Parties

Appearance :

For the Appellant/s : Mr. Veena Kumari Jaiswal
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 04-10-2018 Heard both sides.

The petitioners have filed this civil miscellaneous petition against the order dated 04.07.2017, passed by the learned Sub-Judge-V, Patna City in Title Suit No.380 of 2013 by which the petition of the petitioners filed under Order VII Rule 11 read with Section 151 of the CPC has been rejected.

The petitioners are defendants no.4 and 5 in the suit. The plaintiff filed the suit for declaration that the defendants no.1 to 3 are not entitled to negotiate to sell the property to any strangers without offering the plaintiff to purchase the lands. During the pendency of the suit, the defendants no.1 to 3 sold the land falling in their share to defendants no.4 and 5. The defendants no.1 to 3 filed petition that they are ready to execute the sale deed



in favour of the plaintiff but no order was passed. The defendants no.4 and 5 filed petition that the suit is not maintainable on the ground of vagueness of cause of action and the relief but after hearing the parties, the learned Sub-Judge dismissed the petition of the petitioner filed under Order VII Rule 11.

The petitioners being aggrieved by the aforesaid order filed this civil miscellaneous petition. Learned counsel for the petitioners submits that the petitioners are also ready to execute the sale deed in favour of the plaintiff of the suit if the plaintiff pays the consideration amount but in the present case the matter is under consideration about the illegality of the order dismissing the petition of the petitioners filed under Order VII Rule 11.

I do not find any illegality in the order as it has rightly been held that the plaintiff has got valid cause of action for the suit. Accordingly, the civil miscellaneous petition is dismissed as devoid of any merit. If the petitioners, so desire, may file petition that they are ready to compromise the case and execute the sale deed in favour of the plaintiff on payment of consideration amount and the court shall pass order in accordance with law.

(Prabhat Kumar Jha, J)

S.KUMAR/-

U			
---	--	--	--

