

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.70 of 2019

1. Md. Mustaque S/o Late Md. Kallu, resident of Mohalla- Urdu Bazar, P.S.- Laheriasarai, District- Darbhanga at present residing at Mal Bazar Kiran Tailor, P.O. and P.S. Mal Bazar, District- Siliguri.
2. Md. Khaild Azaw Khan @ Pyare Khan, S/o Ahmad Khan @ Lal Khan, resident of Mohalla- Rajtoli, P.S. Laheriasarai, District- Darbhanga.

... .. Petitioner/s

Versus

1. Shamsun Nisha, W/o Late Mohiuddin residents of Mohalla- Urdu Bazar, P.S. Town, Laheriasarai, District- Darbhanga.
2. Bibi Irfana Yasmin, W/o Md. Oamar Jawaid, residents of Mohalla- Urdu Bazar, P.S. Town, Laheriasarai, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Md. Shahnawaz Ali, Adv
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 22-01-2020

Heard learned counsel for the petitioners and learned
counsel for the respondents.

This application has been preferred praying inter alia
for the following relief/s:

“For appropriate writ, order, and direction on
the respondents and to quash the order dated 14th
September, 2018 in Title Suit No.383 of 2013 on a
petition under Order VII, Rule 11(d) of the Code of
Civil Procedure.”



The trial court has dismissed the petitioners' request for rejection of the plaint only on the ground that one of the documents filed along with the plaint is unregistered. Whether the suit is barred by law or not is for the defendant to plead and argue and for the Court to consider. However, only for the reason that one of the documents is not registered, plaint cannot be rejected for it not to be one of the grounds specified under Order 7 Rule 11 C.P.C.

There is no bar in the institution of the plaint annexing an unregistered document. Whether such document is admissible or not or can be accepted or not in the course of trial is a different matter, but certainly not a ground for rejection of a plaint.

As such, the impugned order dated 14th September, 2018 in Title Suit No.383 of 2013 cannot be said to be perverse or illegal or without any jurisdiction, hence, petition filed under Article 227 of the Constitution, impugning the impugned order is hereby rejected.

At this stage, Learned counsel for the petitioners states that the trial court be directed to frame a preliminary issue.



Well, it is always open for the petitioners to move an appropriate application seeking framing of a preliminary issue, which the Court is duty bound to do so purely in accordance with law. It is clarified that on the framing of preliminary issue, this Court has not expressed any opinion.

(Sanjay Karol, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.01.2020
Transmission Date	N/A

