

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1212 of 2016**

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Ram Kishore Prasad

.... Appellant/s

Versus

Deepak Kumar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Deepak Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 28-11-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated 09.09.2016 passed by learned A.D.J.-IV, Gaya in Probate Case No.03 of 2013/06 of 2016 whereby the learned court below has rejected the application filed by the petitioner to convert the probate case to a regular title suit.

The learned counsel for the petitioner submitted that the probate case has been filed by the respondent and the probate case is being contested by the petitioner hotly, therefore, the learned court below should have converted the probate case to title suit.

Section 295 of the Indian Succession Act provides that in any case before the District Judge in which there is contention, the proceeding shall take as nearly as may be the form of a regular suit according to the provisions of Code of Civil Procedure. According to this provision, therefore, only law provides that the

proceeding shall take as nearly as may be the form of a regular suit. There is no necessary that the probate case may be converted to a regular title suit. Therefore, if the probate case is contested, the court below shall apply Section 295 of the Indian Succession Act.

Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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