

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.689 of 2016**

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Shabuddin Ansari

.... Appellant/s

Versus

Suhail Karim & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Wasi Ahmad Khan

For the Respondent/s : Mr.

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

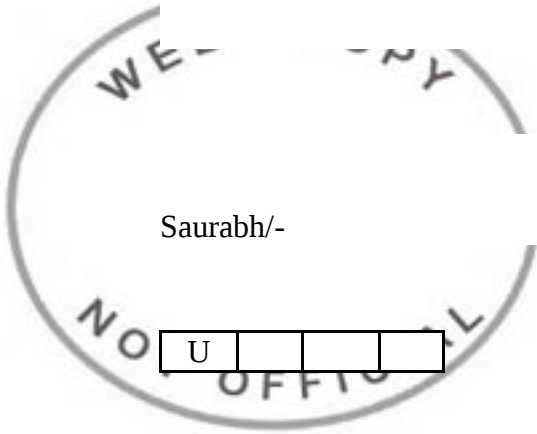
ORAL ORDER

2 23-09-2016

It appears that in Execution Case No.7 of 1994, third party, who is respondent No.3, filed an application under Order XXI Rule 97 objecting to the execution case. The trial court, after evidence of the parties and after hearing the parties, decided the said objection under Order XXI Rule 97 C.P.C. by the impugned order dated 13.05.2016 in favour of the respondent No.3 on merit. Therefore, in view of the provision as contained in Order XXI Rule 103 C.P.C. it is a decree within the meaning of Section 2(2) C.P.C.

In such view of the matter, this Civil Miscellaneous application is not maintainable. The petitioner may file appeal before the appropriate forum under the Code of Civil Procedure. The petitioner is permitted to withdraw this Civil Miscellaneous application with liberty to file the appeal.

Thus, this Civil Miscellaneous application is dismissed
as withdrawn with the aforesaid liberty.



Saurabh/-

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(Mungeshwar Sahoo, J)