

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.563 of 2016

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Bimla Devi & Anr

.... Appellant/s

Versus

Fulmati Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 06-12-2016 1. Heard the learned counsel for the petitioner and the
learned counsel for the respondent.

2. Perused the impugned order dated 21.06.2016 passed by
the learned District Judge, Siwan in Misc. Appeal No.10 of 2016
whereby the learned District Judge held that the order allowing the
amendment application is appealable and rejected the application
filed by the petitioner for dismissal of the Misc. appeal as not
maintainable.

3. From perusal of the impugned order, it appears that
District Judge, Siwan has misunderstood the decision of the
Supreme Court quoted in the order by saying that since the
Supreme Court has held that no revision is maintainable against an
order allowing amendment then the Appeal will lie under Order 43
of the Code of Civil procedure. The High Court at least do not



expect this type of loose order from such a higher Judicial Officer. This shows the mindset of the Judicial Officer who are administering justice to the justice consumer in the District. In my opinion, the order is patently illegal, without jurisdiction and because of non-application of judicial mind and, therefore, the order is liable to be set aside.

4. In the result, this Civil Misc. application is allowed. The impugned order is set aside and the Misc. Appeal filed before the District Judge is held not maintainable.

5. The respondent No.1, if so desire, may approach appropriate forum by filing appropriate proceeding but that will be always subject to limitation.

(Mungeshwar Sahoo, J)

Sanjeev/-

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