

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1026 of 2016**

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Ramanand Yadav & Ors

.... Appellant/s

Versus

Pundeo Yadav & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Kishun Prasad

For the Respondent/s : Mr.

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

2 08-11-2016

Heard learned counsel for the petitioner.

2. Perused the impugned order dated 18.7.2016 passed by the learned Sub-Judge-1st Bettiah, West Champaran in Partition Suit No. 170 of 2012, whereby the learned court below allowed the intervention application filed by the intervener-defendant.

3. It appears that the plaintiff filed the suit for partition alleging that Tapeswar Yadav died in the year 1955. The intervener filed application for being added as party on the ground that Tapeswar Yadav died in the year 1960 and therefore, his daughter i.e. the mother of the intervener had share in the property which is inherited by the intervener. The court below by the impugned order allowed the intervention application.

4. The only grievance of the petitioner is that since Tapeswar Yadav died in the year 1955, the daughter will not inherit the property as the daughters were given share in the

property of father after commencement of Hindu Succession Act, 1956.

5. It may be mentioned here that it is not denied by the petitioners that the mother of the intervener-defendant is not the daughter of Tapeswar Yadav. So far year of death is concerned, now, in view of the fact alleged by the intervener, this question becomes the disputed question of fact which will arise for determination in the suit itself for deciding this question as to when Tapeswar Yadav died, the presence of the intervener is necessary. In my opinion, therefore, the learned court below has rightly exercised the jurisdiction under Order 1 Re 10 Sub-Clause 2 C.P.C. Thus I find no reason to interfere with the impugned order and accordingly, this civil miscellaneous application is dismissed.

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(Mungeshwar Sahoo, J)