

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1086 of 2016**

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Bhardul Sah, S/o Late Krit Sah, resident of Pakari Ashok, P.S.- Piyara,
District- East Champaran

.... Petitioner/Plaintiff

Versus

Mewalal Sah @ Mewa Lal, S/o Late Imrit Sah, resident of Pakari Ashok,
P.S.- Piyara, District- East Champaran

.... Respondent/Defendant

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Appearance :

For the Appellant/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr.

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

3 23-11-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated
30.07.2016, passed by the learned Sub-Judge-XIII, Motihari,
East Champaran in Partition Suit No. 178 of 2004, whereby the
court below has allowed the amendment application.

Learned counsel for the petitioner submitted
that the evidence of the plaintiff has already been closed and
now the amendment application has been filed by the
defendant praying for amendment in the written statement to
the effect that unless the other joint family property mentioned
in the amendment application are made the subject matter of
the Partition Suit, the plaintiff's Partition Suit is liable to be
dismissed.

Perused the impugned order. Perused the
amendment application. It appears that the defendant is not
praying for any relief regarding the property. His defence is only

that these properties which are the joint family property, if not made the subject matter of the Partition Suit, then the Partition Suit is liable to be dismissed.

In my opinion, therefore, this question which is being introduced by the defendant by way of amendment is pure question of law. The question is whether for partial partition the suit will be dismissed or not is to be decided.

Since, the defendant is not praying for amendment of new facts, there is no question of prejudice to the petitioner arises.

Thus, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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