

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1483 of 2016**

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Mosaffir Yadav & Anr

.... Appellant/s

Versus

Meena Devi & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kr. Sinha

For the Respondent/s : Mr.

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

ORAL ORDER

2 21-12-2016

It appears that by the impugned order dated 22.01.2016 the learned court below has disposed of the suit in terms of Order 10 Rule 4(2) CPC which provides that if on the date fixed the party fails to appear before the court, judgment shall be pronounced. Admittedly on the date of order dated 22.01.2016 the petitioners failed to appear and the court below has passed the judgment disposing of the suit.

In such view of the matter, the judgment passed according to Order 10 Rule 4 (2) CPC cannot be the subject matter of a proceeding under Article 227 of the Constitution of India. The petitioners have got the remedy under the CPC.

Learned counsel for the petitioners, therefore, seek permission to convert this civil miscellaneous application to a civil revision application under the CPC within 23.01.2017.

Permission is accorded.



The petitioners may convert this civil miscellaneous application to a civil revision application under the CPC within 23.01.2017.

(Mungeshwar Sahoo, J)

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