

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1405 of 2016**

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Abdul Aziz @ Abdul Aziz Mohammad & Ors

.... Appellant/s

Versus

Bijoy Kumar Gupta & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ravindra Kr Sinha No.2

For the Respondent/s : Mr.

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

ORAL ORDER

2 20-12-2016 Heard the learned counsel, Mr. Ganapati Trivedi, for the petitioner.

The learned counsel for the petitioner submitted that although the Court below has relied upon the decision of the Hon'ble Supreme Court in the case of Dhurandhar Prasad Singh Vs. Jai Prakash University AIR 2001 S.C. 2552 has not stated that the intervener should be allowed to contest the suit from the stage they entered appearance and there should not be any de novo trial. The learned senior counsel pressed reliance at paragraph 7 of the aforesaid judgment.

From perusal of the impugned order dated 19.09.2016 passed by Civil Judge, Sr. Division, Kahalgaon Bhagalpur in Title Suit No.334 of 2004, it appears that the Court below has relied on this decision wherein it has been held that he is bound by all proceeding up to the stage when he obtained leave to carry on the



proceeding.

Therefore, when the Court below is relying on the decision, it cannot be said that the Court below is not conscious of this legal position. Certainly in view of the decision of the Hon'ble Supreme Court, the intervener can carry on the suit from the stage they obtained the leave of the Court.

In view of the above factual position and legal position, I do not find any reason to interfere with the impugned order and thus this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

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