

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1187 of 2016**

=====

Maheshwar Duwedi

.... Appellant/s

Versus

Meena Devi

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ajit Kumar

For the Respondent/s : Mr.

=====

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

2 25-11-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated 14.06.2016 passed by learned Subordinate Judge, Paliganj (Patna) in Title Suit No.34 of 2009 whereby the learned court below has rejected the application filed by the petitioner under Section 10 of the Code of Civil Procedure.

It appears that probate case has been filed by the petitioner which was subsequently converted to Title Suit No.02 of 2006. Subsequently the plaintiff-respondent filed Title Suit No.34 of 2009 for declaration of title on the basis of registered sale deed said to have been executed by Ram Jhari Devi, daughter of Late Parma Dubey.

According to the learned counsel, Late Parma Dubey has already executed a Will with respect to his entire share in favour of the petitioner and the plaintiff of suit of 2009 is claiming

title on the basis of sale deed said to have been executed by daughter of Late Parma Dubey.

Admittedly the entire property, which is subject matter of probate case converted to Title Suit No.02 of 2006, is not subject matter of title suit filed by the plaintiff-respondent. Likewise the matter in issue in the present suit of the year 2009 is also not involved in the probate case. In the probate case only question to be decided is whether the Will is genuine and validly executed according to law or not.

In view of the above facts and circumstances of the case I find no reason to interfere with the impugned order and thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

Harish/-

U			
---	--	--	--