

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.51 of 2016**

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Swami Triyoganand Ji Maharaj

.... .... Appellant/s

Versus

Rama Singh & Anr

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Tribhuwan Narayan

For the Respondent/s : Mr.

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

4 10-08-2016

Heard learned counsel Mr.Tribhuwan Narayan for the petitioner and learned counsel Mr. Ranjan Kumar Dubey for respondent no.2.

In a suit for specific performance of contract filed by respondent no.1 against respondent no.2 the petitioner filed an application under Order 1 Rule 10 CPC. The learned Subordinate Judge-IV, Kaimur at Bhabua on 01.08.2015 in Title Suit No.445 of 2009 rejected the said application holding that for deciding the question as to whether the plaintiff-respondent no.1 is entitled for a decree for specific performance of contract or not, the presence of the present petitioner is not necessary. As such, he is not a necessary party.

The other fact is that respondent no.2 had also entered into an agreement to sell the property situated in Kolkata to another. In that case when the agreement was not complied with,

the vendee filed suit for specific performance of contract. In the said suit for specific performance of contract the present petitioner filed an application for being added as party. The trial court allowed the same but the High Court in C.O. No.2019 of 2013 considering various decisions of the Supreme Court by reasoned order set aside the order of the trial court and held that the present petitioner is not a necessary party in view of the judgment of the Supreme Court **(2005) 6 Supreme Court Cases 733** and **(2008) 13 Supreme Court Cases 658**. This order of the Calcutta High Court was challenged by the petitioner before the Supreme Court by filing Special Leave to Appeal (C) No.8980 of 2015. By terms of order dated 27.11.2015 the Hon'ble Supreme Court has dismissed the Petition for Special Leave to Appeal. The present case is in the same footing. Here also the suit for specific performance of contract has been filed by plaintiff-respondent no.1 against respondent no.2.

In view of the above facts and circumstances of the case the learned court below has rightly rejected the application, as such, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Thus, this civil miscellaneous application is dismissed.

Harish/-

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**(Mungeshwar Sahoo, J)**