

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.13 of 2016**

=====

Sarju Mahto

.... Appellant/s

Versus

Misho Mahto & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Nagendra Dubey

For the Respondent/s : Mr.

=====

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

3 21-10-2016 Heard the learned counsel for the petitioner and the

learned counsel for the respondents.

Perused the impugned order dated 12.02.2016 passed
by Sub Judge II, Jamui in Title Suit No.38 of 2004 whereby the
learned Court below has allowed the intervention application filed
by the intervener-respondent No.18.

The learned counsel for the petitioner submitted that the
Court below while allowing the application has passed non-
speaking and unreasoned order. In no case, the order can be said to
be judicial order. According to the learned counsel, earlier same
application had already been rejected nine years ago but that was
also not considered.

On the other hand, the learned counsel for the
respondents submitted that nothing was concealed by the
respondent No.18. In the application, everything has been

mentioned. The Court below considered all these matters but it is not written in the order.

Perused the order dated 12.02.2016. From perusal of the order, it appears that it is one line order passed by the Court below. The Court below has also not considered the fact that whether the intervener is necessary party in the suit or not. The Court below has not taken into consideration the earlier order.

It is settled principles of law that unless it is recorded by the Court that the person sought to be added is either necessary party or proper party, the Court has no jurisdiction to add the person as party in the suit which is filed by the plaintiff and no relief is claimed against the intervener.

In view of the above facts and circumstances of the case, this Civil Miscellaneous application is allowed. The impugned order dated 12.02.2016 aforesaid is hereby set aside and the matter is remanded back to the Court below and the Court below is directed to pass a fresh order after hearing both the parties according to law.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	
---	--	---	--