

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.276 of 2016**

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Prashansha Rani Singh & Ors

.... Appellant/s

Versus

Sri Baijnath Sah & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anish Chandra Sinha

For the Respondent/s : Mr.

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

4 14-12-2016 Heard the learned counsel for the petitioners and the
learned counsel for the respondents.

Perused the impugned order dated 18.03.2016 passed
by learned Sub Judge III, Patna City in Title Suit No.58 of 2008
whereby the learned Court below rejected the intervention
application filed by the petitioners.

From perusal of the impugned order, it appears that the
Court below rejected the application on the ground that the
petitioner is not a party to the agreement. The plaintiff-respondent
has filed the suit for specific performance of contract. The
petitioner is only claiming to be the co-sharer of the defendant and
for that he has filed a separate suit for partition.

In such view of the matter, the title, interest or
possession of the petitioner cannot be decided in a suit for specific
performance of contract. Therefore, their presence is not necessary



in the suit for specific performance of contract. They can enforce their right in the partition suit.

Thus, I find no reason to interfere with the impugned order and accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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