

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.315 of 2016**

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Kedar Singh & Anr

.... Appellant/s

Versus

Ram Sharestha Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rakesh Ambastha

For the Respondent/s : Mr.

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

2 17-08-2016

Heard learned counsel Mr. Rakesh Ambastha for the
petitioners.

Perused the impugned order passed by the court below.

It appears that the suit was filed by the plaintiff praying for declaration that amicable partition between three brothers is binding on the parties. It is admitted fact that the plaintiff and defendants belonged to the branch of Bhola son of Raghubir, who are great grandsons of Rabbi Singh. The petitioners are great grandson of Poshan Singh, who was brother of Rabbi Singh. They filed application for being added as party on the ground that their property is also involved in this partition suit. So far this claim of the interveners is concerned, it is entirely a different claim i.e. the interveners' claim is against the plaintiff and defendants both. So far the relief claimed by the plaintiff in the suit is validity or otherwise or the amicable partition between the three brothers,

namely, Ramji, Ramshresth and Baccha Singh, who are great grandsons of Rabbi Singh. In my opinion, therefore, for deciding the validity or otherwise of the amicable partition between the present plaintiff and defendants, the presence of the third party is not at all required. So far the claim of the interveners is concerned, their claim is against the plaintiff and defendants of this suit. Therefore, if they have got any interest in the property, they may initiate separate proceeding but certainly for deciding the issue involved in the present suit, their presence is not at all necessary. In other words, they are not necessary party.

In view of the above I find no jurisdictional error in the order passed by the court below. Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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