

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.307 of 2016**

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Md. Faiyaz Newaz

.... Appellant/s

Versus

Sabra Khatoon & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Suresh Mishra

For the Respondent/s : Mr.

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

3 24-08-2016 Heard the learned counsel, Mr. Suresh Mishra for the
petitioner.

Perused the impugned order dated 03.12.2015 passed by
Sub Judge IV, Munger in Title Suit No.6 of 2007 whereby the
learned Court below rejected the intervention application filed by
the petitioner on the ground that the suit has been filed by the legal
representatives of Bibi Husna against the defendant No.1 for
declaration that the sale deed executed by Bibi Husna is void, ab
initio and illegal document as Bibi Husna was of unsound mind.
The present petitioner filed the intervention application for being
added as party on the ground that prior to sale deed, a Will had
been executed by Bibi Husna in his favour and the petitioner has
filed Title Suit No.79 of 2006 for declaration of right and for
eviction of defendant No.1.

In view of the fact that the suit has been filed by the heirs



of Bibi Husna for declaration with respect to the sale deed executed by Bibi Husna in favour of defendant No.1, the point to be decided in the suit is whether the sale deed said to have been executed by Bibi Husna is legal, valid or void document. For deciding this question between the plaintiff and the defendant No.1, in whose favour the sale deed has been executed, the presence of the petitioner in the suit is not at all required. He is claiming title on the basis of the Will said to have been executed by Bibi Husna and for that he has already filed a title suit, therefore, his title is yet to be declared. Now since his claim itself is against the defendant No.1, in other words, he has got conflicting interest with defendant No.1 their dispute in this present suit i.e. the intervener and the defendant No.1 cannot be decided in the present suit.

In view of the above settled principles of law, in my opinion, the learned Court below has rightly rejected the application, as such, there is no jurisdictional error in the order.

Thus, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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