

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8696 of 2015**

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Radha Devi & Ors

.... .... Petitioner/s

Versus

Sri Amit Yadav & Ors

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Prabhat Ranjan

For the Respondent/s : Mr.

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

4      15-02-2016                      Heard learned counsel Mr. Prabhat Ranjan for the petitioners and learned counsel Mr. Abbas Haidar for the respondents.

2. This application under Article 227 of the Constitution of India has been filed by the three sisters for setting aside the order dated 01.04.015 passed by Subordinate Judge-II, Purnea in Title Suit No.252 of 2013 whereby the court below rejected the application filed by these petitioners for being impleaded as party defendants in the suit.

3. It is admitted fact that that earlier there was partition suit being Partition Suit No.418 of 1997 wherein the mother of these three sisters was allotted separate Takhta, these sisters were also allotted their separate Takhta. The three sisters who are the respondents here in this writ application were allotted a joint Takhta. The present suit has been filed by one of the brothers Amit

Yadav against the other two brothers for partition of the said property which was allotted in their Takhta jointly in earlier Partition Suit No.418 of 1997. It is admitted fact that the property allotted to these three sisters separately in separate Takhta and the property allotted in the Takhta of the mother is not the subject matter of the present suit.

4. From perusal of the order passed by the court below, it appears that the court below considering all these aspects of the matter has rejected the application of these petitioners on the ground that they are not necessary party in the present suit.

5. The submission of learned counsel for the petitioners is that wrong final decree was passed in the earlier suit as these three sisters relied on their brothers who were prosecuting the earlier suit of the year 1997 and they got fraudulently prepared Takhta regarding lands which were already sold by the parties and for that miscellaneous case has been filed for initiating contempt proceeding.

6. So far the submission of learned counsel for the petitioners is concerned, it is not an issue between the plaintiff and the defendant of Title Suit No.252 of 2013. Therefore, for deciding issue regarding partition of the property between parties to the Title Suit No.252 of 2013, the presence of the present

petitioners is not at all necessary. Therefore, the court below has rightly rejected the interlocutory application. Thus, this writ application is dismissed.

7. If so advised, the petitioners may approach appropriate forum by initiating appropriate proceeding.

**(Mungeshwar Sahoo, J)**

Harish/-

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