

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1502 of 2016**

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Ramesh Chandra Mishra

.... Appellant/s

Versus

Chandra Bhushan Mishra @ Bachchan & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Verma

For the Respondent/s : Mr.

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

ORAL ORDER

2 23-12-2016 Heard learned counsel Mr. Sunil Kumar Verma for the

petitioner.

Persued the impugned order dated 06.09.2016 passed
by Additional District Judge-I, Sheohar in Probate Case No.01 of
2011 whereby the learned court below rejected the petition filed
by the petitioner for being added as party in the probate case.

It appears that one Permeshwar Mishra had three sons,
namely, Ram Ekbal Mishra, Ram Ayodhya Mishra and Ram
Lakhan Mishra. The third son Ram Lakhan Mishra died in the
year 2007 leaving behind Malti Devi, his daughter. Ram Lakhan
Mishra executed a Will in favour of two sons of Ram Ekbal
Mishra and two sons had filed the probate case. The petitioner is
the son of Late Ram Ayodhya Mishra. He filed the application for
being as party; The learned court below by the impugned order
held that he is a stranger to the family of Ram Lakhan Mishra.



It may be mentioned here that the daughter of Ram Lakhan Mishra i.e. Malti Devi is an opposite party in the probate case. Admittedly Ram Lakhan Mishra died in the year 2007. Therefore, in view of the amendment of the Hindu Succession Act in the year 2005 Malti Devi became the coparcener in the family and whatever share Ram Lakhan Mishra would have received, will devolve on her. Now, therefore, when Class-I heir is there on record naturally the petitioner Ramesh Chandra Mishra who is son of Late Ram Ayodhya Mishra has got no caveatable interest in the property because even if no Will had been executed by Ram Lakhan Mishra, his property would have not devolved on the present petitioner.

In view of the above facts and circumstance, I do not find any reason to interfere with the impugned order. Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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