

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1380 of 2016**

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Shivnandan Prasad

.... Appellant/s

Versus

Ram Ratan Yadav @ Ram Ratan & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Mishra

For the Respondent/s : Mr.

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

ORAL ORDER

2 19-12-2016

Heard learned counsel for the petitioner.

This application under Article 227 of the Constitution of India has been filed by the petitioner against the order dated 19.09.2016 passed by learned Principal Judge, Family Court, Jehanabad in Guardianship Case No.01 of 2016 whereby the learned court below directed to return the plaint under Order 7 Rule 10 CPC.

The grievance of the petitioner is that the court below in the last line of order has stated that the plaint is returned to the Principal Judge, Family Court, Gaya.

It may be mentioned here that this last portion of the order appears to be a mistake although it should have been to the effect that the application is returned to the petitioner for proper production. Be that as it may, the order returning the application under Order 7 Rule 10 CPC is appealable under the CPC as



provided under Order 43 Rule 1(a). Therefore, the learned counsel for the petitioner seeks permission to withdraw this civil miscellaneous application with liberty to file appeal.

In view of the submission, permission is accorded.

Accordingly, this civil miscellaneous application is dismissed as withdrawn with the aforesaid liberty.

Filing will always be subject to limitation.

(Mungeshwar Sahoo, J)

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