

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6559 of 2016**

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Sumit Kumar Verma & Ors

.... .... Petitioner/s

Versus

Satyendra Kumar @ Rajiv Ranjan & Ors

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Manoj Kumar

For the Respondent/s : Mr.

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

**ORAL ORDER**

2      27-07-2016      Heard the learned counsel, Mr. J.S. Arora, for the petitioner.

Perused the order dated 16.02.2016 passed by Sub Judge II,  
Danapur in Title Partition Suit No.112 of 1986.

It appears that issues have been framed in the suit in the year 2010. Earlier this petitioner was not party to the partition suit. Amendment application was filed for bringing the properties which are in the name of the petitioners on record for partition. The petitioners contended before the Court below that those properties are admittedly gifted properties in favour of the petitioner or the properties are Nanihal property. Therefore, it could not have been made the subject matter for partition by way of amendment.

It is also contended that the deed of gift is not under challenge at any time and the properties are the self acquired

property of the petitioner.

All these questions which are being raised and were raised before the Court below are questions on merit.

The Hon'ble Supreme Court in the case of **Rajesh Kumar Agrawal vs. K.K. Modi. (2006) 4 SCC 385** has held that 'while considering whether an application for amendment should or should not be allowed, the Court should not go into the correctness or falsity of the case in the amendment. Likewise it should not record a finding on the merits of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment.'

In view of the above settled proposition of law, I find that the Court below has rightly exercised under Order 6 Rule 17 CPC, therefore, in my opinion, no case for exercise of supervisory jurisdiction is made out.

Accordingly, this writ application is dismissed.

**(Mungeshwar Sahoo, J)**

Sanjeev/-

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