

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.81 of 2016**

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Suresh Singh

.... Appellant/s

Versus

Chandrika Singh

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Singh

For the Respondent/s : Mr.

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

ORAL ORDER

2 28-06-2016

Heard learned counsel Mr. Ajay Kumar Singh for the petitioner and learned counsel Mr. Akhileshwar Srivastava for the respondent.

Perused the order dated 10.03.2016 passed by learned 2nd Additional District Judge, Motihari, East Champaran in Title Appeal No.31 of 1989 whereby the lower appellate court has rejected the amendment application.

From perusal of the impugned order, it appears that the lower appellate court found that in the written statement the appellant-petitioner's case is that Basdeo Singh died in the year 1965 leaving behind only one son, who is petitioner. On this basis the suit has been disposed of upto the High Court and the High Court has remanded the matter to the lower appellate court. The amendment application has been filed by the defendant-petitioner and for the first time a new fact is sought to be amended to the

effect that Basdeo Singh died leaving behind mother of the petitioner also. The lower appellate court found that if this amendment is allowed then naturally one another issue is to be framed and for that evidences will be necessary and further that it will amount increase and decrease in the share of the parties.

In view of the above finding recorded by the lower appellate court, in my opinion, it is not at all a case for interference in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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