

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.829 of 2016**

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Jai Narain Mahton

.... Appellant/s

Versus

Subhash Prasad Mahton

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vinod Gautam

For the Respondent/s : Mr.

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

4 23-11-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 03.05.2016 passed by Sub Judge I, Patna in Misc. Case No.4 of 2012 whereby the learned Court below rejected the application filed by the petitioner under Order 7 Rule 11 C.P.C.

It appears that the respondent filed application under Order 9 Rule 13 C.P.C. for setting aside the ex parte judgment and decree. In that miscellaneous case, the present petitioner filed application under Order 7 Rule 11 C.P.C. for rejection of the miscellaneous case. By the impugned order, the Court below has rejected the application filed by the petitioner.

The only grievance of the petitioner is that Order 9 Rule 13 C.P.C. application is not maintainable because sufficient time was granted to the respondent for filing written statement. These questions which are being raised by the petitioner appear to be

disputed questions of fact and, therefore, the same cannot be decided in an application under Order 7 Rule 11 C.P.C. and moreover, none of the clauses of Order 7 Rule 11 is applicable in the facts and circumstances of the present case.

Thus, I find no reason to interfere with the impugned order and accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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