

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.754 of 2016**

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Ashok Kumar

.... Appellant/s

Versus

Vijay Kumar Singh

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Suraj Narain Yadav

For the Respondent/s : Mr.

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

2 29-09-2016

Heard learned counsel for the petitioner.

This civil miscellaneous application has been filed against the order dated 05.12.2015 passed by Subordinate Judge-XI, Muzaffarpur in Title Suit No.869 of 2014 by which the injunction application has been rejected.

It may be mentioned here that the Limitation Act Article 116(b) provides that appeal to any other court than the High Court from any decree or order is to be filed within 30 days from the date of order. This civil miscellaneous application has been filed on 11.08.2016 after a long period, therefore, had the appeal been filed before the lower appellate court as the impugned order is appealable, it would have been hopelessly barred by law of limitation. Therefore, this civil miscellaneous application has been filed before this High Court and now permission is sought for to convert this civil miscellaneous application which itself is not

maintainable. Therefore, no permission can be granted to the petitioner to convert this civil miscellaneous application.

Accordingly, this civil miscellaneous application is dismissed. The petitioner may avail the appropriate remedy under the Code of Civil Procedure.

(Mungeshwar Sahoo, J)

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