

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.288 of 2016**

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Chandra Kanta Devi & Anr

.... Appellant/s

Versus

Smt. Shyama Devi

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar Singh

For the Respondent/s : Mr.

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

2 16-08-2016 Heard the learned counsel, Mr. Anil Kumar Singh, for the
petitioner.

Perused the order dated 3.2.2016 passed by Sub Judge VI,
Bhagalpur in Title Suit No.247 of 1982 whereby the learned Court
below rejected the amendment application filed by the defendant
petitioner of amendment in the written statement.

From perusal of the impugned order, it appear that the Title
Appeal was filed before the lower appellate Court and the lower
appellate Court specifically framed an issue and referred this issue
for decision to the trial Court. The issue is whether the plaintiff's
suit is barred by Benami Transaction Prohibition Act, 1988 or not.
During the pendency of this decision on the issue, amendment
application was filed by the plaintiff alleging that earlier one suit
was filed by the plaintiff of the present suit which has already
been dismissed. The learned Court below held that since the Court

is trying and recording a finding on the issue, it has been referred to by the appellate Court the application filed by the petitioner cannot be entertained as no other issues can be decided by the trial Court.

In view of the above facts and circumstances of the case, I find no jurisdictional error in the impugned order nor it can be said that the impugned order occasioned failure of justice.

Thus, this Civil Misc. application is hereby dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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