

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1189 of 2016**

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Ajay Kumar Singh & Ors

.... Appellant/s

Versus

Sweeti Kumari @ Sweta Kalyani

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mritunjay Prasad Singh

For the Respondent/s : Mr.

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

ORAL ORDER

2 24-11-2016 Perused the impugned order dated 30.05.2016 passed by learned Subordinate Judge-IV, Patna in Title Partition Suit No.216 of 1994 whereby the learned court below after hearing the parties rejected the objection filed by the petitioners to the report of the Pleader Commissioner and has confirmed the Pleader Commissioner's Report. The court below has also directed the office to prepare final decree accordingly.

Learned counsel for the respondent submitted that since the impugned order itself is judgment and decree appealable under Section 96 of the Code of Civil Procedure and the limitation shall start from that date, this civil miscellaneous application is not maintainable.

From perusal of the impugned order, it is clear that the Pleader Commissioner's Report has been confirmed. Now this decree is to be engrossed in the stamp paper which has already

been engrossed prior to filing this civil miscellaneous application, therefore, the petitioners may file appeal under the Code of Civil Procedure.

So far this civil miscellaneous application is concerned, it is not maintainable and accordingly it is dismissed.

(Mungeshwar Sahoo, J)

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