

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12931 of 2014**

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Deotanand Mishra

.... .... Petitioner/s

Versus

Bimla Devi

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Deepak Kumar

For the Respondent/s : Mr.

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

2 11-02-2016

Heard the learned senior counsel, Mr. Rajeev Kumar

Verma for the petitioner on I.A. 472 of 2016. At the time of hearing of this I.A., I heard the parties on merit in admission matter.

By the impugned order dated 09.05.2014, the learned Sub Judge IV, Patna City in Title Suit No.685 of 1989 rejected the objection filed by the petitioner to the Pleader Commissioner's report and directed to prepare final decree.

It may be mentioned here that so far this order is concerned, it is a decree and for filing appeal, the limitation will start running from this date.

It is settled principles of law that "a decree in a suit for partition declares the rights of the parties in the immovable properties and divides the shares by metes and bounds. Since a decree in a suit for partition creates rights and liabilities of the



parties with respect to the immovable properties, it is considered as an instrument liable for the payment of stamp duty under the Indian Stamp Act. The object of the Stamp Act being securing the revenue for the State, the scheme of the Stamp Act provides that a decree of partition not duly stamped can be impounded and once the requisite stamp duty along with penalty, if any, is paid the decree can be acted upon. The engrossment of the final decree in a suit for partition would relate back to the date of the decree. The beginning of the period of limitation for executing such a decree cannot be made to depend upon date of the engrossment of such a decree on the stamp paper. Reference may be made to the decision of the Supreme Court in the case of **Dr. Chiranjil Lal (D) by L.Rs. v. Hari Das (D) by L.Rs., AIR 2005 Supreme Court 2564.**

In view of the above settled proposition of law, this being a decree cannot be challenged in supervisory jurisdiction under Article 227 of the Constitution of India.

Thus, this writ application is dismissed.

**(Mungeshwar Sahoo, J)**

Saurabh/-

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