

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1424 of 2016**

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Madan Singh

.... Appellant/s

Versus

Devendra Prasad Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dr. Rajesh Kumar Singh

For the Respondent/s : Mr.

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

ORAL ORDER

2 21-12-2016 Heard the learned counsel for the petitioner.

Perused the impugned order dated 27.09.2016 passed by Sub Judge VI, Saran at Chapra in Final Decree No.12 of 1986 whereby the learned Court below has rejected the objection filed by the petitioner to the pleader commissioner's report.

In view of the fact that the objection of the petitioner has been rejected and there is no other objection to the pleader commissioner's report, the only option before the Court below is to confirm the pleader commissioner report. However, by the impugned order, the Court below has finally decided the rights of the parties and, therefore the order is a decree within the meaning of Section 2(2) CPC and now it is to be engrossed only in the stamp paper. The limitation for filing appeal will start from the date of the decree, i.e., order dated 27.09.2016 in view of the judgment of the Hon'ble Supreme Court reported in **AIR 2005 SC**



2564.

Therefore, since it is a decree, the petitioner may, if so advised may initiate appropriate proceeding before appropriate forum. As the petitioner has got the remedy under the Code of Civil Procedure itself, this application under Article 227 of the Constitution of India is not maintainable.

Thus, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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