

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.229 of 2017**

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Naga Rai & Ors

.... Petitioner/s

Versus

Baidyanath Rai & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Umesh Tiwari

For the Respondent/s : Mr.

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

2 08-02-2017

Heard the learned counsel for the petitioners.

Perused the impugned order dated 09.11.2016 passed by learned Sub Judge IX, Motihari, East Champaran in Title Suit No.314 of 1998 whereby the learned Court below rejected the amendment application filed by the petitioners praying for amendment in the written statement.

From perusal of the amendment application, which is Annexure 1 to this civil miscellaneous application, and the impugned order, it appears that earlier the petitioner categorically admitted the share of the plaintiff in various paragraphs mentioned in the written statement. The court below found that the petitioners are trying to withdraw the admission made by them in the written statement and, therefore, rejected the amendment application.

It is settled principles of law that a categorical admission made by party in his pleading cannot be allowed to be withdrawn.



The Hon'ble Supreme Court in the case of **Gautam Sarup v. Leela Jetly and others, (2008) 7 Supreme Court Cases 85** has held that a categorical admission cannot be resiled from but, in a given case, it may be explained or clarified.

Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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