

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.211 of 2017

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Ashok Kumar & Ors

.... Appellant/s

Versus

Jogen Rishi & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Helal Ahmad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 06-02-2017 **1.** Perused the order dated 09.09.2016 passed by learned
Sub Judge I, Barsoi, Katihar in Title Suit No.278 of 2011.

2. It appears that the present petitioners who are defendant
No.2 to 5 in the Court below filed application for deleting their
name from the cause title of the suit on the ground that they are
not necessary party because the plaintiff and the other defendants
have already compromised. By the impugned order the Court
below has held that the present petitioners have already appeared
and filed a written statement and have not admitted the case of the
plaintiff. By filing this application, no new facts have been
brought on record and, therefore, at this stage, the petitioner's
name cannot be struck out under Order 1 Rule 10 sub Rule 2 CPC.

3. Since the defendant-petitioner have already filed written
statement and the suit is proceeding and till today, the suit has not



been disposed of on the basis of compromise between the parties, the order passed by the Court below cannot be said to be an order passed in the manner not permitted by law or the order suffers from jurisdictional error or that the impugned order occasion failure of justice or that the petitioner in any way is prejudiced by the impugned order.

4. Thus, in my opinion, no case for interference under Article 227 of the Constitution of India is made out. Thus, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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