

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.328 of 2017**

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Lakshmi Narain Singh @ Lallu Singh

.... Appellant/s

Versus

Rana Pratap Singh @ Birendra Pratap Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Subhash Chandra Bose

For the Respondent/s : Mr.

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

ORAL ORDER

- 2 21-02-2017 **1.** Heard the learned counsel for the petitioner.
- 2.** Perused the impugned order dated 10.11.2016 passed by learned Sub Judge II, Patna in Misc. Case No.31 of 1997 whereby the learned Court below has allowed the Misc. case for restoration of partition suit which was dismissed for default.
- 3.** From perusal of the impugned order, it appears that both the parties have adduced their evidence and thereafter, on the basis of materials and evidences available on record, the Court below has allowed the application for restoration and restored the suit for partition.
- 4.** In view of the above fact, when the Court below has only restored the partition suit for its disposal on merit, no prejudice will be caused to the defendant-petitioner. On the contrary, if the order is interfered with then it will occasion failure



of justice and the plaintiff will have to file a fresh suit for partition.

5. In view of the above facts and circumstances of the case, I do not find any reason to interfere with the impugned order in exercise of supervisory jurisdiction.

6. Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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