

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.324 of 2017**

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Sarju Mahto

.... Appellant/s

Versus

Misho Mahto & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nagendra Dubey

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 03.01.2017 passed by learned Sub Judge II, Jamui in Title Suit No.38 of 2004 whereby the learned Court below has allowed the intervention application filed by the respondent No.18 finding that she is necessary party.
- 3.** The grievance of the petitioner is that earlier the prayer for intervention was rejected by the Court below after hearing both the parties. The second ground is that she is not widow of brother of the plaintiff petitioner, namely, Kaila Yadav.
- 4.** From perusal of the impugned order, it appears that earlier the Court below had rejected the intervention application. The Court below has clearly recorded finding that earlier the application was rejected as she had not submitted any document in support of her claim and now the circumstances have been



changed. She has produced documents in support of her claim.

5. So far the second ground is concerned, admittedly, the plaintiff petitioner's case is that she is not the widow of his brother, i.e, she is not Bhabhi/ Bhabbho of the plaintiff petitioner whereas the intervener is claiming to be the Bhabhi / Bhabbo of the plaintiff-petitioner. This question can only be decided in presence of the intervenor. Therefore, for deciding this issue she is a necessary party. If the application is rejected then she will have to institute another suit for claiming her interest in the suit and moreover the present suit is partition suit.

6. Therefore, in my opinion, the learned Court below has rightly allowed the application for intervention. Thus, no case for interference in exercise of supervisory jurisdiction is made out. Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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