

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.126 of 2017

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1. Ramkrit Sahani son of Late Jado Sahani.
2. Upendra Sahani
3. Prawesh Sahani @ Ram Prawesh Sahani.
4. Pramod Sahani @ Pramod Kumar Sahani.
All residents of Mauza Behnari, P.O. Katha Dhunathpur, P.S. Lakhora,
District East Champaran
(Defendant 1st Party in the court below)

.... Appellant/s

Versus

1. Phuleshwari Devi wife of Jokhan Sahani, resident of Mohallah
Chhatauni Payal, P.O. Motihari, P.S. Chhatauni, District- East
Champaran
(Plaintiff in the court below) Respondent 1st Party.
2. Naik Sahani son of Banraj Sahani Matofa
3. Raja Sahani son of Armi Sahani.
4. Naga Sahani, son of Shiv Nandan Sahani.
All residents of Behnari, P.O. Katha Raghunathpur, P.S. Lakhora,
District- East Champaran
(Defendant 2nd Party in the court below)
----- ----- ---- respondent 2nd Party

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kumar Uday Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 27-01-2017 Heard the learned counsel, Mr. Kumar Uday Singh for
the petitioner.

Perused the impugned order dated 2.12.2016 passed by
the learned Sub-Judge-XI, Motihari in Partition Suit No. 580 of
2009, whereby the learned court below has rejected the application
filed by the petitioner for stay of the Partition Suit during the
pendency of the Miscellaneous Appeal No. 368 of 2016 arising
out of Probate Case No. 17 of 2009.

From perusal of the impugned order, it appears that the
probate case has already been dismissed and against that order,
miscellaneous appeal was filed. So far Section 10 C.P.C. is



concerned, it is not applicable in the present case as the probate case is an application and not a suit . Moreover, the probate case has already been dismissed.

In such circumstances, I do not find any reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Thus, this Civil Miscellaneous applicable is dismissed.

(Mungeshwar Sahoo, J)

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