

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1467 of 2016**

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Devendra Nath Puri S/o Late Yogendra Natha Puri, r/o Village Ramji Chak,
Digha, P.S. Digha, District, Patna.

... .. Plaintiff/Petitioner

Versus

Kishore Kunal S/o Late Ramchandra Prasad Shahi, R/o Sayan Nilay Goshala,
Sadakat Ashram, P.O. Sadakat Ashram, P.S. Patliputra, District- Patna.

... .. Defendant/Respondent

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Appearance :

For the Petitioner : Mr. Rakesh Kumar, Advocate
For the Respondent : None

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 19-11-2018 Heard the learned counsel for the petitioner. Nobody
appears on behalf of the respondent.

The petitioner has filed this civil miscellaneous
petition against the order dated 26.10.2016, passed in Title Suit
No.276 of 2011 by which the learned Sub-Judge-VI, Patna
rejected the petition of the petitioner for amendment in the
plaint on the ground that the defendant cannot be sued in his
personal capacity and the issues have already been settled,
therefore, amendment cannot be allowed.

On the face of it, it appears that the petitioner-plaintiff
wanted to insert the parentage and personal address of the
defendant but the learned Sub-Judge committed error rejecting
the prayer for amendment in the plaint on the ground that the
defendant cannot be sued in his personal capacity. If defendant



cannot be sued in his personal capacity, the suit itself is liable to be dismissed but since the plaintiff wanted to only mention the parentage and personal address of the defendant, therefore, I find that the order of the learned Sub-Judge is illegal and erroneous. Accordingly, the order dated 26.10.2016, passed in Title Suit No.276 of 2011 by the learned Sub-Judge-VI, Patna is set aside. The amendment is allowed and this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J.)

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