

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1504 of 2017**

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1. Ram Rekha Singh son of Late Chabhi Singh resident of village - Baren,
P.S. - Nabinagar, District - Aurangabad.

.... Petitioner/s

Versus

1. Anant Vijay Prasad Singh son of Late Rawaneshwar Prasad Singh
resident of village - Karma Bhagwan, Police Station - Aurangabad (M), Post
Office - Aurangabad, District - Aurangabad.
2. Ram Ran Vijay Prasad Singh son of Late Rawneshwar Prasad Singh
3. Krishna Vijay Prasad Singh son of Late Rawneshwar Prasad Singh
4. Satya Vijay Prasad Singh son of Late Rawneshwar Prasad Singh All are
residents of Village - Karma Bhagwan, Police Station - Aurangabad (M),
Post Office - Aurangabad, District - Aurangabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Siddharth Harsh

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

2 06-09-2018 Heard learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition
against the order dated 15.05.2017 passed in Partition Suit No.71
of 2009 by Sub Judge IX, Aurangabad by which the learned Sub
Judge dismissed the petition of the petitioner filed under Order I
Rule 10(2) C.P.C. to be impleaded as defendant.

Petitioner is intervener in the suit. The plaintiff filed the
suit for partition of the property mentioned in schedule of the
plaint. The petitioner filed the petition stating the facts that the
lands of Plot No.404, area 16 decimals of Khata No.83 belonged
to the landlord, Rai Parmananth Mitra and others and he got the



lands settled in his name through Hukumnama on 04.02.1932 and petitioner also produced some documents in support of his case but the learned Sub Judge held that the documents filed by the petitioner appears to be forged and fabricated and accordingly, dismissed the petition filed under Order I Rule 10(2) C.P.C.

Learned counsel for the petitioner submits that the learned Sub Judge has illegally recorded the finding about the genuineness of the documents of the petitioner without framing an issue, therefore, the finding is unwarranted and illegal.

It appears that the petitioner filed the petition for impleading him as defendant on the basis of certain documents but the findings recorded by the Sub Judge with regard to genuinity of the documents filed by the petitioner appears to be unwarranted but at the same time, I do not find any merit in this case as the learned Sub Judge has rightly dismissed the petition of the petitioner for being impleaded as defendant.

Thus, this civil miscellaneous petition is dismissed with an observation that any finding recorded with regard to the genuineness of the documents filed by the petitioner shall not be binding. If the petitioner, so advised, may file suit for declaration of title.

(Prabhat Kumar Jha, J)

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