

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1182 of 2017**

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1. Shweta Singh Daughter of Late Indradeo Singh, Resident of Village-Karsha, P.O.+ P.S.-Bikram, District-Patna.

.... Petitioner/s

Versus

1. Awadhesh Nandan Kumar @ Awadhesh Singh, Son of Late Indradeo Singh
2. Mayank Kumar, Son of Awadhesh Nandan Kumar, Both Resident of Village-Karsha, P.O. + P.S.-Bikram, District-Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dronacharya
For the Respondent/s : Mr.

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

2 26-06-2018 Heard Mr. Dronacharya, learned counsel for the petitioner.

The petitioner has preferred this civil miscellaneous petition against the order dated 26.04.2017 passed by Sub Judge, Paliganj in Title Suit No.65 of 2008 by which the learned Sub Judge allowed the amendment petition of the defendant and added Plot No.196, Khata No.117 situated in Mauza Adampur, P.S. Khagaul, the property for partition.

The learned counsel for the petitioner submits that petitioner is the plaintiff. She purchased the land in the year 2001 out of her own income. Her father died in the year 1987 and, therefore, the said property should not be made subject matter of



the partition at the instance of the defendant.

I find no force in the submission of the learned counsel for the petitioner on the simple ground that on the assertions of the defendant, the land bearing Plot No.196 of Khata No.117, purchased in the name of Shweta Singh, is added in the counter claim on which the defendant claimed that the aforesaid land was also purchased in jointness. It is the defendant who has to prove that the land is acquired through income of the joint family property. By the impugned order, the plot has been put in the schedule of the counter-claim for partition and at this stage the same cannot be excluded, if the defendants claimed that the aforesaid plot was also purchased from income of joint property and the same is liable to be partitioned. Therefore, I do not find any illegality in the order impugned.

Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

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