

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.670 of 2016**

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Raghunandan Prasad & Anr

.... Appellant/s

Versus

Brij Mahto & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prem Ranjan Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 22-09-2016

Heard learned counsel for the petitioners and the
learned counsel for the respondents.

2. Perused the impugned order dated 03.03.2016 passed
by the Sub-Judge-III, Barh in T.S. No. 93 of 2010, whereby the
learned court below allowed the application filed by the
defendants-respondents to mark the registered sale deeds as
exhibit in the suit on payment of cost of Rs. 1000/-.

3. Learned counsel for the petitioners submitted that
argument in the suit is going on and that there is no mention in the
written statement with respect to the documents. Therefore, the
Court could not have granted leave to the respondents to get the
documents marked as exhibit. Learned counsel further submitted
that the court below in the order itself held that the plaintiffs are
being prejudiced but has allowed the application.

4. On the other hand, the learned counsel for the



respondents submitted that the defendants-respondents specifically pleaded in the written statement that the *Will* which has been produced by the plaintiff is forged and fabricated document. Therefore, in support of the same, the document is being produced by the respondents. The learned counsel further submitted that so far prejudice is concerned, the court below considering the fact has granted liberty to the plaintiffs to adduce evidence in rebuttal and also awarded cost.

5. Perused the impugned order. It appears that the court below has held that the plaintiffs will be prejudiced but the court below has granted liberty to the petitioners to adduce evidence in rebuttal and cost of Rs. 1000/- has also been awarded. The learned court below also recorded that the documents are required in the interest of justice as the documents are public documents and more than 30 years old.

6. So far non pleading regarding the documents in the written statement is concerned, it may be mentioned here that it is not denied that the defendants specifically pleaded that the *Will* is forged and fabricated document. According to Order VI Rule 2 C.P.C, a party is required to plead the fact and not the evidence. Therefore, the fact has been pleaded in the written statement. Now, evidence is being sought to be produced i.e. documentary

evidences. So far belated stage is concerned, it may be mentioned here that on the ground of delay, justice cannot be denied. Once it is found that the documents are necessary for decision in the case, the Court has the jurisdiction to receive the documents in evidence even after conclusion of the argument and even it has been posted for judgment. In this matter, reference may be made to the decision of the Supreme Court in the case of ***K.K.Velusamy Vs. N. Palaanisamy*** reported in ***2011 (11) SCC 275***. The Supreme Court has held that the Court has inherent jurisdiction under Section 151 C.P.C. Now, therefore, when the court below has exercised the inherent jurisdiction under Section 151 of the C.P.C., in my opinion, even if another view is possible, this Court cannot take another view particularly in exercise of supervisory jurisdiction so as to supervise the impugned order specially when the court has compensated the petitioner and also granted liberty to adduce evidence in rebuttal, if so advised. Thus, I find that it is not a case for interference in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous is dismissed.

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(Mungeshwar Sahoo, J)