

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.515 of 2016**

Prakash Mehta

.... Appellant/s

Versus

Smt. Kanti Devi

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Jha

For the Respondent/s : Mr.

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

2 29-08-2016 Heard the learned counsel, Mr. Ashok Kumar Jha, for the petitioner.

It appears that the suit has been filed by the petitioner for specific performance of contract. During the pendency of the suit, the defendant sold the property to third person. The suit has been decreed and against the decree, the defendant have filed Title Appeal before the lower appellate Court. The lower appellate Court rejected the application under Order 41 Rule 27 CPC on the ground that no provision as contained in Order 41 Rule 27 is applicable and no explanation has been given as to why the document which was available during the trial was never filed by the respondent.

In view of the finding recorded by the Court below that none of the provision under Order 41 Rule 27 CPC is applicable, the Court below has rightly rejected the application

filed by the petitioner and this order passed by the Court below is according to the decision of the Hon’ble Supreme Court **(2012) 8 SCC 148 Union of India Vs. Ibrahauddin..**

Thus, I find no reason to interfere with the impugned order as such this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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