

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5961 of 2016

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Manju Ojha & Ors

.... Petitioner/s

Versus

Shiba Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganjendra Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 08-04-2016 Heard learned counsel Mr. Udit Narain Singh for the petitioners and learned counsel Mr. Sunil Kumar Pandey on behalf of the respondents.

It appears that the learned 1st Additional District Judge, Muzaffarpur by order dated 18.02.2016 rejected the application filed by the plaintiffs-appellants-petitioners under Order 41 Rule 27 of the Code of Civil Procedure seeking permission to adduce additional evidence.

According to the learned counsel for the petitioners, the said document was exhibited in the trial court as Ext.13, which is an order under Section 133 of the Code of Criminal Procedure. However, subsequently application was filed before the trial court for again marking the said document as evidence in the court below, which was rejected and thereafter the plaintiff filed civil revision before the High Court. The High Court said that if at all

the suit will be decided against the plaintiff, the plaintiff may raise this question before the appellate court. Before the appellate court the application was filed by the plaintiff-appellant for marking the said document i.e. the order passed in 133 Cr.P.C. proceeding as an exhibit. By the impugned order the lower appellate court held that according to the direction of the High Court the same shall be considered at the time of hearing of the appeal.

In view of the above fact that liberty has already been granted to the petitioners to raise this question at the time of hearing of the appeal before the appellate court, it is not necessary to mark the said document as an exhibit. The petitioners are at liberty to raise this question and if it is raised, the trial court shall decide the same.

Therefore, I find no reason to interfere with the impugned order in supervisory jurisdiction. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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