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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19238 of 2015

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Vijay Kumar Gupta

.... Petitioner/s

Versus

Urmila Devi Chenani & Ors

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Suresh Prasad
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

2 30-06-2016 Heard learned counsel Mr. Suresh Prasad for the petitioner.

By the impugned order dated 28.05.2015 the learned Subordinate Judge-IV, Motihari, East Champaran in Title Eviction Suit No.86 of 2014/01 of 2006 rejected the application filed by the petitioner for recalling the plaintiffs' witness, namely, Naseem Akhtar for further cross-examination.

The Hon'ble Supreme Court in the case of **Vadiraj Naggappa Vernekar Vs. Sharad Chand Prabhakar Gogate, A.I.R. 2009 Supreme Court 1604** has held that the Court in appropriate cases and not as a general rule should exercise the jurisdiction to recall a witness under Order 18 Rule 17 CPC merely on the ground that his recall and re-examination would not cause any prejudice to the parties. Such power is to be invoked not to fill up the lacunae in the evidence of the witness which has

already been recorded but to clear any ambiguity that may have arisen during the course of his examination. Admittedly in the present case, cross-examination has already been made by the petitioner who is the tenant.

In such circumstances, in my opinion, the court below has rightly rejected the application. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Harish/-

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