

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.872 of 2016**

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Syed Zafar Fauque & Ors

.... Appellant/s

Versus

Humaira Khatoon & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Anis Akhtar

For the Respondent/s : Mr.

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

2 21-10-2016 Heard the learned counsel, Mr. Anis Akhtar, for the
petitioner.

Perused the impugned order dated 07.05.2016 passed by the
learned Sub Judge III, Sheikhpur in Title Suit No.21 of 1983
whereby the learned Court below directed the defendant to
produce D.W.1, Kamal Akhtar, for his further cross-examination
by the plaintiff. From perusal of the impugned order, it appears
that on 12.04.2016, one document was produced by the plaintiff
being the exchange deed and the Court below granted time to the
defendants to rebut the same and, therefore, the application was
filed by the defendant for further examination / cross examination
of the D.W.1. In such view of the matter, the Court below, in
exercise of jurisdiction under Section 151 CPC as has been held
by the Hon'ble Supreme Court in the case of *K. K. Velusamy Vs.
N. Palanisamy 2011 (11) SCC 275*, has allowed the defendant to

examine D.W.1. The Hon'ble Supreme Court in the aforesaid case has held that the Court in appropriate cases in exercise of its discretion permit reopening of evidence and / or recalling of witnesses for further examination / cross-examination after evidence laid by the parties is concluded and arguments have commenced or even when arguments have been concluded and case has been reserved for judgment.

In view of the above settled proposition of law, in my opinion, the order passed by the Court below cannot be said to be without jurisdiction or the Court below acted in the manner not permitted by law or that the order is illegal. Thus, I find no reason to interfere with the impugned order.

Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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