

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1550 of 2016**

=====

Bishnu Kant Tiwary

.... Appellant/s

Versus

Smt. Shail Kumari Devi & Anr

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Dwivedy Surendra

For the Respondent/s : Mr.

=====

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

2 23-12-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 28.10.2016 passed by Sub Judge II, Buxar in Title Suit No.127/53 of 2016 whereby the learned Court below allowed the application filed by the defendant for examination of Manki Kunwar, defendant No.2 as special witness under Order 18 Rule 16 C.P.C.

From perusal of the impugned order, it appears that the court below recorded clear finding that the defendant No.2 is suffering from illness and is old enough, as such, it is necessary that her evidence is recorded as special witness.

At the time of hearing of this application, the learned counsel for the petitioner submitted the medical certificate before this court. From perusal of the medical certificate itself, it is clear that the defendant No.2 is 85 years old. This also admitted that she is ailing, therefore, doctor was consulted.



In my opinion, this is sufficient ground for allowing her to be examined as special witness and, therefore, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	
---	--	---	--

