

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1171 of 2016**

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Indradev Prasad & Ors

Versus

Most. Janki Devi

.... Appellant/s

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Suneil Kumar Thakur

For the Respondent/s : Mr.

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

2 19-10-2016

Heard learned counsel for the petitioner.

2. Perused the order dated 22.08.2016 passed by the Sub-Judge-1st, Jhanjharpur in T.S. No. 12 of 2016, whereby the learned court below allowed the examination of plaintiff No.1 as special witness in exercise of jurisdiction under Order 16 Rule 1 of the C.P.C. and since she is aged about 93 years, the court below appointed Pleader Commissioner for her examination.

3. Order 18 Rule 16 C.P.C. provides that the court has the power to examine the witness immediately where any sufficient cause is shown to the satisfaction of the Court as to why his evidence should be taken immediately. The court has the power to examine the witness at any time after the institution of the suit.

4. From perusal of the impugned order, it appears that the court below recorded clear finding that the plaintiff No. 1 is

aged about 93 years old lady and she is suffering from various ailments. In view of the above, it cannot be said that the order passed by the court below is without jurisdiction or that the order has been passed in the manner not permitted by law or has occasioned failure of justice. In my opinion, therefore, there is no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Thus, this civil miscellaneous application is dismissed.

Brajesh/-

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(Mungeshwar Sahoo, J)