

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5266 of 2016**

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Panchanand Yadav & Ors

.... .... Petitioner/s

Versus

Lakhan Prasad Singh & Ors

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Shiva Shankar Sharma

For the Respondent/s : Mr.

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

2      20-07-2016

Heard learned counsel Mr. Shiva Shankar Sharma for  
the petitioners.

Perused the order dated 18.02.2016 passed by the court  
below in Title Appeal No.25 of 2001.

It appears that the application has been filed by the  
petitioners under Order 41 Rule 25 of the Code of Civil Procedure  
and prayed for framing an issue and remanding the issue for  
decision before the trial court. The court below has by the  
impugned order rejected the same.

Order 41 Rule 25 of the Code of Civil Procedure  
speaks about the jurisdiction of the appellate court. If at all any  
issue is required to be framed and if it requires evidence, the  
appellate court may refer the same to the trial court and shall  
direct such court to take additional evidence. Therefore, the  
jurisdiction can be decided by the appellate court after hearing the

parties in the judgment.

In my opinion, the learned court below has rightly rejected the application filed by the petitioners. Thus, this writ application has got no merit. Accordingly, it is dismissed.

**(Mungeshwar Sahoo, J)**

Harish/-

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