

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.21713 of 2012**

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1. Saudagar Yadav S/O Late Sohar Gope R/O Vill-Bharosa Tola Ishri, P.S.-  
Mufassil Nawada, Distt-Nawada

.... .... Petitioner/s

Versus

1. Nawada Municipality , Through Executive Officer, Nawada Municipality  
, P.S.-Nawada, Distt-Nawada

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Gauri Shankar Prasad -Advocate

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI**  
**ORAL ORDER**

3 18-01-2016

Heard learned counsel for the petitioner. In spite of notice served validly upon respondent, none appears on his behalf.

2. Gone through the order impugned in consonance with Annexure-3, a petition filed on behalf of defendant wherein a prayer has been made to call for certain endorsements made over Chirkut filed on his behalf before the competent authority and by such disclosure, it has been pleaded that the document filed on behalf of plaintiff/respondent happens to be forged, which has been properly replied under Annexure-4 wherein the plaintiff/respondent has not denied or controverted the aforesaid disclosure and, the learned lower court after hearing both the parties by the order impugned allowed the petition.

3. Learned counsel for the petitioner has relied upon his submission in ***Rasiklal Manikchand v. M.S.S. Food Products***



reported in **2012 (2) PLJR 178 (SC)** in support of his contention and submitted that once the case has been posted for judgment, then in that event, the learned lower court was not competent enough to accede to the prayer made on behalf of plaintiff/respondent.

4. Gone through the relevant citation wherefrom it is evident that the same is not applicable in the facts and circumstances of the present case, because of the fact that in the aforesaid matter the lis was over ex parte judgment which the learned lower court had passed after having been failed to get proper co-operation at the end of defendant in terms of direction so given at an earlier occasion in a way to conclude the trial within a specified periods.

5. Because of the fact that there happens to be specific disclosure at the end of Respondent/defendant that the document filed on behalf of petitioner/plaintiff happens to be forged one and to substantiate the same though, belatedly, the prayer has been made and further, having no specific denial at the end of the petitioner/plaintiff, on account thereof, there happens to be no illegality in the order impugned. After all substantial justice has to be done. Furthermore, the Court should not be allowed to be a party to the forgery committed by unscrupulous litigants. At any

stage of the trial, whenever the incidence of forgery is found the party has to pay for it. As such, the instant petition is found devoid of merit and is, accordingly, rejected.

6. However, the learned lower court is directed to conclude the trial within three months from the date of receipt of instant order without undue adjournment to either of the parties.

**(Aditya Kumar Trivedi, J)**

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