

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.718 of 2016**

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Shree Bhagwan Maur & Anr

.... Appellant/s

Versus

Babi Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Praveen Kumar

For the Respondent/s : Mr.

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

2 27-09-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated 02.07.2016 passed by the learned Sub Judge 1st, Ara, in Title Suit No. 199 of 2006 whereby the learned court below allowed the application filed by the defendant nos. 3 and 4 for recall of the witnesses of the plaintiffs mentioned in the application on the ground that they would not cross-examine the said witnesses because of the reasons assigned in the application. The plaintiff did not raise any objection. From perusal of the impugned order, it appears that the plaintiff had given no objection and accordingly, the court below directed the plaintiff to produce the witnesses for their cross examination within three months.

The present petitioner is the intervenor-defendant (they wrongly mentioned as intervenor-plaintiff in the party position at page 1 of the Civil Miscellaneous Application). The

plaintiff is not objecting to the order and the petitioner is defendant, therefore, there is no question of prejudice to the petitioner arises. The evidence of the petitioners have not been recalled. So far jurisdiction of the court to recall any witness at any time for the ends of justice is under Order 18 Rule 17 of the Code of Civil Procedure. In exercise thereof, the court below has allowed the application after no objection of the plaintiff.

In my opinion, therefore this is not a case for interference of supervisory jurisdiction. Accordingly, this Civil Miscellaneous Application is dismissed.

(Mungeshwar Sahoo, J)

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