

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.715 of 2016**

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Sheikh Mojibul @ Sheikh Mojibullah & Ors

.... Appellant/s

Versus

Mohammad Gyan @ Sheikh Gyasuddin @ Sheikh Zeyauddin & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Anis Akhtar

For the Respondent/s : Mr.

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

2 26-09-2016

Learned counsel Mr. Anis Akhtar for the petitioners

seeks permission to withdraw this civil miscellaneous application on the ground that the suit has been dismissed for default. The learned counsel further submitted that since the suit has been dismissed for default, therefore, he may be permitted to challenge the order, if at all the suit is restored to its original file.

From perusal of the impugned order, it appears that the court below considering the age of the persons sought to be examined as witness to be 90 years has allowed the application under Order 18 Rule 16 of the Code of Civil Procedure. In such circumstances, permission to challenge this order again after restoration of the suit is hereby refused. This civil miscellaneous application is, thus, permitted to be withdrawn and as such it is dismissed.

Harish/-

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(Mungeshwar Sahoo, J)