

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8776 of 2015

=====

Shakti Prasad Mehta son of Late Jagdish Prasad Mehta Resident of Mohalla
- Janakpur, P.S. Muffasil, Dist - Gaya.

.... Petitioner

Versus

1. Jaymanti Devi Wife of Amar Nath Prasad
2. Anant Kumar
3. Yashwant Kumar Both sons of Amar Nath Prasad
4. Babi Kumari daughter of Amar Nath Prasad All resident of Village -
Janakpur, P.S. Muffasil, District - Gaya.
5. Amar Nath Prasad son of Late Jagdish Prasad Mehta Resident of Mohalla
- Janakpur, P.S. Muffasil, District - Gaya.
6. Smt. Sharda Devi wife of Rajendra Mehta Resident of Village - Barew
(Manpur), P.S. Buniyadganj, District - Gaya.
7. Smt. Tara Devi Wife of Shadhu Sharan Mehta Resident of Village -
Vaili, P.S. Khizersarai, Dist - Gaya.
8. Smt. Suchitra Devi wife of Ram Brikchh Mehta Resident of Village -
Ghuriyama, P.S. Wazirganj, District - Gaya.

.... Respondents

=====

Appearance:

For the Petitioner : Mr. Mritunjay Prasad Singh
For the Respondents : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 12-04-2016 Heard learned counsel Mr. Mritunjay Prasad Singh, for
the petitioner.

By the order dated 03.03.2015, the learned Sub-Judge-
III, Gaya in Partition Suit No. 333 of 2009 rejected the application
filed by the Defendant No. 1-petitioner for further cross-examination
of the witness of plaintiff being PW-7.

From perusal of the impugned order, it appears that the
defendant no.1-petitioner cross examined the witnesses and thereafter
the other defendants cross-examined. Thereafter, the application has

been filed by the petitioner.

The Hon'ble Supreme Court in case of Vadiraj Nagappa Vernekar Vs. Sharad Chand Prabhakar Gogate, AIR 2009 Supreme Court 1604 has held that the power under the provisions of order 18 rule 17 is to be sparingly exercised in appropriate cases and not as a general rule merely on the ground that this recall and re-examination would not cause any prejudice to the parties. Such power is to be invoked not to fill up the lacunae in the evidence of the witness which has already been recorded but to clear any ambiguity that may have arisen during the course of his examination. In the present case, the only ground taken by the petitioner is that after cross-examination of the defendant no.1-petitioner, the other defendants cross examined PW-7. Therefore, the petitioner should be granted a chance for further cross-examination.

In my opinion, on this ground, no further cross examination can be allowed and learned Court below has rightly rejected the application. I find no reason to interfere with the impugned order passed by the learned Court below in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J.)

Mishra/-

U			
---	--	--	--