

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8711 of 2015

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Most. Sursati Devi & Anr

.... Petitioner/s

Versus

Surendra Sahni & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Shrivastava

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 06-01-2016 Heard learned counsel Mr. Binod Kumar Singh for the

petitioners.

By the impugned order dated 09.04.2015 the learned
Additional District Judge-V, Bettiah rejected the application filed
by the plaintiffs-appellants under Order 41 Rule 27 CPC in Title
Appeal No.87 of 1995.

The learned counsel for the petitioners submitted that
the hearing of the title appeal is going on and at this stage the
plaintiffs-appellants-petitioners obtained information under the
Right to Information Act, 2005 and filed application for
permission to adduce additional evidence.

The Hon'ble Supreme Court in the case of **Union of
India Vs. Ibrahim Uddin & Anr., 2013 (1) PLJR 48 (SC)** has
held that the general principle is that the appellate court should not
travel outside the record of the lower court and cannot take any

evidence in appeal. However as an exception Order 41 Rule 27 CPC enables the appellate court to take additional evidence in exceptional circumstances. The appellate court may permit additional evidence only and only if the conditions laid down in this rule are found to exist. The parties are not entitled as of right, to the admission of such evidence. Thus, provision does not apply. When on the basis of evidence on record, the appellate court can pronounce a satisfactory judgment.

In view of the above the court below has exercised the discretionary jurisdiction, the same cannot be interfered with in supervisory jurisdiction under Article 227 of the Constitution of India.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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