

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.32 of 2016**

=====

Nand Lal Singh

.... Appellant/s

Versus

Sita Ram Singh & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Chandra Kant

For the Respondent/s : Mr.

=====

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

ORAL ORDER

2 03-05-2016 Heard the learned counsel, Mr. Chandrakant, for the
petitioner.

By the impugned order dated 04.03.2016, the learned Sub
Judge 8th Siwan rejected the application filed by the plaintiff
petitioner for recall of three P.W.'s for their further examination-
in-chief.

From perusal of the impugned order, it appears that the
Court below recorded finding that on the ground mentioned in the
application and supported by the petitioner before the Court
below, the witness cannot be recalled for their further
examination.

The Hon'ble Supreme Court in the case of *Vadiraj
Naggappa Vernekar Vs. Sharad Chand Prabhakar Gogate AIR
2009 SC 1604* has held that 'the power under the provisions of

Order 18 Rule 17 is to be sparingly exercised and in appropriate cases and not as a general rule merely on the ground that his recall and re-examination would not cause any prejudice to the other parties. Such power is to be invoked not to fill up the lacunae in the evidence of the witnesses 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 Court below considering the facts and circumstances found that in fact fill up the lacunae, the application has been filed and the ground is raised that after their recall for re-examination, no prejudice will be caused to the other side.

In view of the above settled principle of law, I find no reason to interfere with the impugned order. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

U			
---	--	--	--