

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.162 of 2016**

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Sri Birendra Kumar Singh

.... Appellant/s

Versus

Smt. Ramsakhee Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sushil Kumar Jha

For the Respondent/s : Mr.

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

2 08-08-2016

Heard the learned counsel, Mr. Gajendra Kumar Jha for
the petitioner.

Perused the order dated 10.03.2016 passed in Title Suit
No.446 of 2015 whereby the learned Sub Judge IV, Patna allowed
the application filed by the defendant No.1 and 2 for their
examination as special witness immediately on the ground that the
defendant No.1 is 80 years and defendant No.2 is 82 years old
persons.

Considering this fact, the Court below in exercise of
jurisdiction under Order 18 Rule 16 C.P.C. directed them to be
examined as special witness by the impugned order.

The learned counsel for the petitioner submitted that the
stage has not come because the defendant No.3 has not yet
appeared and, therefore, at this stage, the Court below could not
have directed the examination of defendant Nos.1 and 2 as special

witness under Order 18 Rule 16 C.P.C.

From perusal of the provision as contained in Order 18 Rule 16 C.P.C., it appears that the Court has the jurisdiction to examine any witness or party as special witness at any stage of the suit.

In such view of the matter, it cannot be said that the order passed by the Court below is without jurisdiction or that it occasioned failure of justice and accordingly, I find no reason to interfere with the impugned order.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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