

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1134 of 2017**

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Smt. Sharda Devi @ Smt. Sarda Devi

.... Appellant/s

Versus

Jagat Rai & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Santosh Kumar Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

2 24-07-2017 Heard Mr. Raj Shekhar, learned Counsel appearing for

the petitioner in the admission matter as well as in I.A. No. 4982 of

2017, which has been filed for stay of further proceeding in the suit

in the court below.

By the impugned order the learned court below has

turned down the prayer of the defendant-petitioner in the suit to

produce documents in support of his case.

It transpires from the impugned order that after

appearance in the suit on 27.9.2010 the written statement was filed

by the petitioner on 12.5.2011. It has been further also noticed by

the learned Court below that thereafter the defendant-petitioner had

been doing regular pairvi in his case and even cross-examined the



witnesses of the plaintiff and after completion of the evidence on behalf of the plaintiff, the defendant-petitioner also examined three of his witnesses. It was at this stage that prayer for filing documents as evidence in the suit was made by the defendant-petitioner on the ground that the documents sought to be filed were placed with the learned Advocate who died in the meantime. The learned court below has also found that no specific date of the death of the learned Advocate has been disclosed by the petitioner.

After considering the submission and perusal of the materials on record and the impugned order, it is absolutely limpid that after completion of the evidence on behalf of the plaintiff the prayer of filing of the documents as made by the petitioner would necessarily involve reopening evidence of the plaintiff. The learned court below has come to the conclusion that no satisfactory explanation has been furnished by the petitioner in support of his prayer for filing the documents at this stage.

This Court, therefore, is not persuaded to exercise its jurisdiction under Article 227 of the Constitution to interdict the



order.

This application is accordingly dismissed. However, dismissal of this application shall not prejudice the rights of the petitioner under Section 105 CPC if such an occasion arises to question the legality and validity of the impugned order.

(V. Nath, J.)

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