

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.21 of 2017**

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Bimla Devi

.... Petitioner/s

Versus

Anil Pd. Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shiv Shankar Sah

For the Respondent/s : Mr.

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

2 19-01-2017

Heard the learned counsel for the petitioner.

Perused the impugned order dated

14.09.2016/15.09.2016 passed by learned Munsif, Araria in Title
Suit No.146 of 2002 whereby the learned Court below has allowed
the application filed by the plaintiffs-respondents for marking the
impugned sale deed as exhibit in the suit on payment of cost of
Rs.5,000.

It appears that the suit has been filed by the plaintiffs-
respondents for setting aside the sale deed in question. At the time
of argument, the plaintiffs-respondents filed the application
praying for permitting the plaintiffs to produce the sale deed under
challenge on the ground that photocopies of the sale deed has
already been filed earlier but by mistake the certified copy of the
sale deed could not be produced earlier. The Court below by the
impugned order has allowed this prayer.



The main grievance of the petitioner is that the application filed by the plaintiffs-respondents is malafide and with intention to harass the defendant-petitioner and the plaintiff has not assigned any reason as to why the certified copy of the sale deed was not produced earlier prior to framing of issue or prior to hearing.

It is admitted fact that the sale deed in question is under challenge in the suit. The defendant-petitioner is not disputing the existence or genuineness of the sale deed. Therefore, for determining as whether the sale deed is genuine one or it is liable to be set aside or not, the sale deed is required to be gone into. Therefore, the court below in exercise of inherent jurisdiction under Section 151 has allowed the said prayer.

The Hon'ble Supreme Court in the case of **K.K. Velusamy vs. N. Palanisamy, (2011) 11 Supreme Court Cases 275** has held that power under Section 151 can be exercised to deal with any particular procedural aspect which is not provided expressly or impliedly in C.P.C., if the ends of justice so warrant and to prevent abuse of process of court. Court in appropriate cases can exercise its discretion to permit re-opening of evidence and/or recalling of witnesses for further examination/cross-examination after evidence led by parties is concluded and



arguments have commenced or even when arguments have concluded and case has been reserved for judgment.

In view of the settled proposition of law laid down by the Hon'ble Supreme Court, when the court below has exercised a jurisdiction under Section 151 C.P.C., I am not inclined to interfere with the impugned order in exercise of same jurisdiction under Article 227 of the Constitution of India.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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