

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17164 of 2013

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Ishwari Gope & Anr

.... Petitioner/s

Versus

Smt. Basanti Devi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanat Kumar Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 10-08-2017 Heard learned Senior Counsel Mr. A.K. Jha for the

petitioners and learned counsel Mr. Nawal Kishore Prasad for the

plaintiff-respondent.

2. From perusal of the impugned order dated 11.07.2013 passed by learned Munsif, Danapur (Patna) in Title Suit No.110 of 1995, it appears that the court below recorded clear finding that the Pleader Commissioner was appointed by order dated 14.09.2009 for examination of P.W.1 as she was aged about 70 years and ailing lady. The examination-in-chief was recorded on 11.02.2012 and the next date was fixed for cross-examination on 19.02.2012 but no cross-examination was made by the present petitioner. Therefore, PW.1 was discharged on 26.02.2012.

3. The learned Senior Counsel Mr. Jha for the petitioners submitted that he will not cross-examine the plaintiff at her house because if the petitioners will go there, they will be



murdered. The life of the petitioners will be in danger.

4. On the other hand, the learned counsel for the respondent submitted that the plaintiff lady is bedridden and, therefore, if the petitioners desire to cross-examine her then they may cross-examine her on any particular date but application has been filed by the defendants-petitioners only with a view to delay the matter. The plaintiff has already examined many witnesses and thereafter this application seeking permission for cross-examination of P.W.1 has been filed.

5. Lastly, the learned Senior Counsel Mr. Jha submitted that the petitioners will cross-examine P.W.1 in her house within one month from today and he will inform the plaintiff-respondent in the court below the date when she will be cross-examined. The learned counsel for the respondent submitted that in no case more than one month time should be granted because the suit is of the year 1995 and in that petty matter, the matter is being lingered.

6. In view of the above facts and circumstances of this case, the impugned order is set aside and the petitioners are permitted to cross-examine P.W.1 on commission within one month after informing the date to the plaintiff-respondent and/or her advocate in the court below. If no cross-examination on



commission is made by the petitioners within one month, they will be debarred from further cross-examining P.W.1. It is made clear that the Pleader Commissioner's cost shall be borne by the present petitioners.

7. Thus, this writ application stands allowed.

Harish/-

(Mungeshwar Sahoo, J)

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