

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.246 of 2016**

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Anupma Kumari @ Anupma Singh

.... Petitioner/s

Versus

Shri Alok Kumar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vivek Prasad

For the Respondent/s : Mr.

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

3 03-02-2017 Heard the learned counsel for the petitioner and the
learned counsel for the respondent.

Perused the impugned order dated 28.09.2015 passed
by Principal Judge, Family Court, Muzaffarpur in Matrimonial
Case No.211 of 2013 whereby the learned Principal Judge has
refused to recall the order whereby the petitioner's evidence was
closed.

From perusal of the impugned order, it appears that
court below has not considered the fact that in fact, the father of
the petitioner was treated in Paras Hospital as he is suffering from
Cancer. Medical prescriptions were produced to show that she was
attending her father. The Court below also did not consider the
fact that there was conciliation proceeding between the parties
which failed.

However, it may be mentioned here that the petitioner



herself has not been examined as witness in the divorce proceeding. Since the petitioner has not been examined and if the order is allowed to stand then it will necessarily occasion failure of justice because of technical objection.

The learned counsel appearing on behalf of the respondent-husband submitted that the petitioner with intention to delay the disposal of the divorce case is lingering the matter and in spite of direction of the court below, she did not produce witnesses, therefore, the evidence of the petitioner has been closed.

The learned counsel for the petitioner submitted that the petitioner will conclude her evidence within three months positively.

In view of the above facts and circumstances of the case that the petitioner herself has not been examined and her father is ill, being treated, I hereby direct the petitioner to conclude her evidence within three months from today in the court below positively. The respondent shall cooperate to the court and shall not pray for unnecessary adjournments with a view to delay and spent the period of three months directed by this court. If the court below will find that the husband is not cooperating and because of non-cooperation of the husband the petitioner is unable to



conclude the evidence within three months, the court below may at his discretion extend the period.

With this observation and direction, this civil miscellaneous application is disposed of. The impugned order is accordingly modified.

(Mungeshwar Sahoo, J)

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