

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.349 of 2016

Most. Devata Devi & Anr

.... Appellant/s

Versus

Umesh Pd. Singh & Ors

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Arbind Kumar Singh

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

- 3 17-02-2017 **1.** Heard the learned counsel for the petitioner.
- 2.** It appears that notices were issued in the admission mater on 26.07.2016. Notice has already been validly served on the respondent No.1 but none appeared on behalf of respondent No.1 although the name of the learned counsel is printed in the daily cause list.
- 3.** The learned counsel for the plaintiff petitioner submitted that the evidence of the petitioner is going on and during this period, the petitioner filed application for permission to produce relevant documents which are necessary for determination of the real controversy between the parties but the Court below without considering the relevancy or otherwise of the document rejected only on the ground of delay.
- 4.** Perused the impugned order dated 8.3.2016 passed by



learned Sub Judge, Gogari, Khagaria in Title Suit No.84 of 2007.

5. It appears that the Court below has rejected the application in one line saying that in the application, the petitioner has not stated as to how this document are relevant. From perusal of the impugned order, it is not apparent that whether the relevancy of the document were argued before the Court below or not. The Court below himself has not tried to find as to whether the documents are relevant for deciding the real question in controversy or not. In my opinion, therefore, the Court below has refused to exercise a jurisdiction vested in it by law in the manner not permitted by law.

6. Accordingly, this Civil Misc. application is allowed. The impugned order dated 8.3.2016 is set aside and the matter is remanded back to the Court below for passing a fresh order after hearing both the parties.

(Mungeshwar Sahoo, J)

Sanjeev/-

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