

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.178 of 2017

=====

Ramlal Yadav & Ors

.... Appellant/s

Versus

Rajaram Yadav & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Raj Kamal

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 02-02-2017 Heard the learned counsel Mr. Raj Kamal for the
petitioner.

Perused the impugned order dated 17.11.2016 passed
by the learned Additional District Judge IV, Aurangabad in Title
Appeal No. 46 of 2015/09 of 2016, whereby the learned
Additional District Judge has rejected the application filed by the
defendant-appellant/petitioner under Order 41 Rule 27 of the Code
of Civil Procedure.

The plaintiff-respondent filed Title Suit No. 09 of 2012
praying for declaration of title and confirmation of possession
and/or recovery of possession. The suit was decreed. The
defendant filed title appeal before the appellate court. The
application was filed by the defendant-petitioner seeking
permission to adduce evidence i.e. to produce the order of the
Consolidation Authority dated 28.02.1978 to show that the name



of the petitioners have been entered in the record of file.

The court below by the impugned order has rejected the said prayer on the ground that the document is doubtful and that does not require for determination of the suit finally, in view of the documentary evidences, already available on record.

It is settled principles of law that the revenue record of right neither creates title nor extinguish. The Hon'ble Supreme Court in the case of *Union of India Vs. Ibrahim Uddin 2012(8) SCC 148* has held that **the appellate court may permit additional evidence only and only if the conditions laid down in Order 41 Rule 27 are found to exist. This provision does not entitle the appellate court to let in fresh evidence at the appellate stage where even without such evidence it can pronounce judgment in a case. It does not entitle the appellate court to let in fresh evidence only for the purpose of pronouncing judgment in a particular way. In other words, it is only for removing a lacuna in the evidence that the appellate court is empowered to admit additional evidence. It is not the business of the appellate court to supplement the evidence adduced by one party or the other in the lower court. The words "for any other substantial cause" must be read with the word "requires" in the beginning of the sentence, so that it is**



only where, for any other substantial cause, the appellate court requires additional evidence, that this Rule will apply e.g. when evidence has been taken by the lower court so imperfectly that the appellate court cannot pass a satisfactory judgment.

In the present case, from perusal of the impugned order, it is clear that the court below clearly recorded the finding that in view of the documentary evidences available on the record, this document is not at all required by the court for determination of the controversies between the parties.

In view of the finding recorded by the court below, I find no reason to interfere with the impugned order. Thus, this civil misc. application stands dismissed.

(Mungeshwar Sahoo, J.)

Rakhi

U			
---	--	--	--

