

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1141 of 2016**

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Punam Kumari @ Poonam Kumari

.... Petitioner

Versus

Niraj Kumar Singh @ Niraj Kumar

.... Respondent

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Appearance :

For the Petitioner : Mr. Kumar Dhirendra Pratap Singh

For the Respondent : Mr.

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

4 16-02-2017 Heard learned counsel Mr. Kumar Dhirendra Pratap Singh for the petitioner and learned counsel Ms. Soni Srivastava for the respondent.

2. Perused the impugned order dated 13.06.2016 passed by learned Principal Judge, Family Court, Gaya in Matrimonial Title Suit No.234 of 2012 whereby the learned Principal Judge has closed the evidence of the petitioner, who is the wife of the respondent.

3. The only grievance of the petitioner-wife is that according to the order of the court below passed under Section 24 of the Hindu Marriage Act the respondent-husband is depositing the interim maintenance in the case in the court below but the said amount has not been permitted to be withdrawn till today by the wife although application has already been filed to that effect by the present petitioner. According to the learned counsel, if the



amount is not permitted to be withdrawn, the petitioner will not be in a position to defend her case and, therefore, in the present case she is unable to examine the witnesses and even herself as witness in the case.

4. On the other hand, the learned counsel Ms. Soni Srivastava for the respondent submitted that a reasonable time may be fixed so that she will examine herself and any other witness as prior to this many times her case was closed and at her instance many adjournments have been granted by the court below. To this submission the learned counsel for the petitioner submitted that if three months time is granted to her, the petitioner will examine herself and any other witnesses, if necessary, within the aforesaid period.

5. In view of the submission of the learned counsels for the parties and in view of the fact that amount, which is being deposited by the husband-respondent, has not been disbursed to the petitioner by the court below, the court below is directed to first permit the wife-petitioner to withdraw the amount deposited by the husband-respondent pursuant to the direction passed under Section 24 of the Hindu Marriage Act and from the date of withdrawal of the amount from the Court, the petitioner shall try to examine all her witnesses including herself within three months.



6. With this direction and observation, this civil miscellaneous application is allowed. The impugned order is set aside and the petitioner is permitted to examine herself and other witnesses within three months from the date of payment to the petitioner by the court below.

(Mungeshwar Sahoo, J)

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