

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1234 of 2018

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Bimla Devi W/o Vijay Kumar Singh, resident of Village- Maheshbara, P.S.-
Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. Ganesh Singh, S/o Late Ramudar Singh, resident of Village- Chhakantoli,
P.S.- Warisnagar, District- Samastipur.
2. Bhim Singh
3. Badri Singh Both sons of Late Brij Nandan Singh, resident of Village-
Chhakantoli, P.S.- Warisnagar, District- Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Baidya Nath Thakur, Advocate
For the Respondent/s	:	Mr. Jagannath Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

5 02-01-2023 This Civil Miscellaneous application has been filed

against the order dated 16.07.2018 passed by the 4th Sub Judge,

Darbhanga in TS No. 483 of 2015.

2. Learned counsel for the petitioner submits that the
petitioner is sick and unable to attend the Court for her
examination as plaintiff and in spite the medical prescription of
her sickness, the learned trial court refused to appoint the
commission for her examination as witness which is illegal and
unreasonable.

3. The learned counsel for the respondents opposes
the contention of the learned counsel for the petitioner
submitting that the petitioner used to go for her treatment at



Darbhanga and she is able to come to Court for her examination as witness.

4. During the arguments, learned counsel for the parties submitted to dispose of this petition with direction for examination of the plaintiff on commission as plaintiff witness at her resident and in this regard only one or two dates may be fixed by the learned trial court on appropriate cost including Advocate's cost to be ascertained by the trial court in the facts and circumstances of this case.

5. In view of the submission by learned counsel for the parties and in the interest of justice, trial court is directed to provide one opportunity to the plaintiff to be examined on commission as plaintiff witness at her residence giving two dates for this purpose ascertaining the appropriate cost including the Advocate's cost to be borne by the plaintiff.

6. Accordingly, the impugned order dated 16.07.2018 passed by 4th Sub Judge, Darbhanga in TS No. 483 of 2015 is set aside and this Civil Miscellaneous Application is disposed of with the aforesaid direction.

(Sunil Dutta Mishra, J)

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