

IN THE HIGH COURT OF JHARKHAND AT RANCHI
C. M. P. No. 487 of 2022

1. Sukhpati			
2. Raju Lal	Petitioners
	Versus		
Kantu Devi	Opp. Party

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioners	: Mr. Abhijeet Kr. Singh, Advocate
For the Opp. Party	: Mr. J.N. Upadhyay, Advocate

Oral Order

04 / Dated : 02.11.2022

1. The instant civil misc. petition has been filed for quashing of the order dated 21.07.2022 passed by the Principal District Judge, Jamshedpur in Original Suit No. 8 of 2019 whereby and whereunder, the petition filed by the petitioner under Order XVIII Rule 17 of C.P.C. for recalling the respondent/plaintiff and her witnesses for further cross examination has been rejected.

2. It is submitted by learned counsel for the petitioners that further cross examination of the witnesses of the applicant for probate of the Will was necessary for the ends of justice.

3. The opposite party preferred an application under Section 276 of the Indian Succession Act for probate of the Will dated 10.01.1986 which was registered as Probate Case No. 22 of 2018. On being contested by the petitioner, the probate case was converted and re-numbered as Original Suit No. 8 of 2019. In this suit, witnesses have appeared and have been examined and cross examined and also discharged. It is submitted that no question was put to the witnesses regarding the contradictory statement and, therefore, for proper cross-examination one chance may be allowed.

4. Learned counsel for the opposite party submits that the petition under Order XVIII Rule 17 of C.P.C. cannot be allowed to fill up the lacuna of any party while examination of the witnesses.

I do not find any merit in the instant civil misc. petition. The witnesses cannot be recalled for cross examination only on the plea that they had not been properly examined on the last occasion.

Accordingly, this civil misc. petition is dismissed.

(Gautam Kumar Choudhary, J.)