

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23152 of 2013

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Indra Kant Jha Son of Chandrashekhar Jha Resident Of Village - Padma,
Police Station - Ladania, District - Madhubani

.... Petitioner

Versus

1. Shobha Kant Jha Son of Chandrashekhar Jha Resident of Village - Padma, Police Station - Ladania, District - Madhubani
2. Mina Jha, Wife of Late Binod Kumar Jha Resident of Village - Padma, Police Station - Ladania, District - Madhubani
3. Sonu Kumar Jha Son of Late Binod Kumar Jha Resident of Village - Padma, Police Station - Ladania, District - Madhubani
4. Smt. Rubi Devi D/O Late Binod Kumar Jha Resident of Village - Padma, Police Station - Ladania, District - Madhubani
5. Putul Kumari D/O Late Binod Kumar Jha Resident of Village - Padma, Police Station - Ladania, District - Madhubani
6. Smt. Usha Devi Wife of Hari Narayan Thakur Resident of Village - Panchdehi, P.S. Raj Nagar, District - Madhubani
7. Smt. Asha Jha Wife of Rajendra Jha Resident of Village + P.S. Lakhnaur, District - Madhubani
8. Most. Umrawati Devi Wife of Late Upendra Jha Resident of Village - Padma, Police Station - Ladania, District - Madhubani
9. Bangla Devi Wife of Late Upendra Jha Resident of Village - Padma, Police Station - Ladania, District - Madhubani

.... Respondents

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Appearance :

For the Petitioner : Mr. Gagan Deo Yadav, Advocate
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 23-11-2017 The petitioner is plaintiff of Partition Suit No.46 of 1999 pending before the court below. He has filed this application for quashing the order dated 28.06.2013 passed Sub-Judge-4th Madhubani whereby and whereunder the evidence of petitioner-plaintiff was closed.

2. Heard learned counsel for the petitioner and perused



the record.

3. The plaintiff has filed the suit for partition claiming 1/3rd share in the suit property mentioned in schedule-1 of the plaint. While the trial was going on, the plaintiff filed an application for appointment of handwriting expert to examine the signature of Upendra Jha and Chandrashekhar Jha on the memorandum of partition (Yadasth batwara) dated 27.12.1989. The said petition was allowed by the court below on 02.04.2013 with a condition that cost of photography and expert fee to be paid by the plaintiff. The plaintiff could not comply the said order and therefore, his evidence was closed as per order dated 28.06.2013. The plaintiff filed a petition on 01.07.2013 to recall the said order dated 28.06.2013 which after hearing was dismissed.

4. From perusal of the impugned order, it appears that the suit was filed on 05.05.1999. The defendants filed written statement and denied the execution of alleged memo of partition. After filing of written statement, the issues were framed. The order-sheet dated 01.02.2013 shows that altogether 27 witnesses were examined on behalf of the plaintiff and he was directed to examine his witnesses within three dates. Thereafter the plaintiff was examined as witness no.28. From order dated 02.04.2013, it appears that in spite of opportunity given to the plaintiff, he did



not produce his witness and he was debarred from adducing other evidence in future except to adduce expert evidence. The plaintiff in spite of sufficient and repeated opportunity did not produce the evidence. The court below in the above background has rightly closed his evidence and fixed the case for evidence of the defendant nos.5 and 6.

5. In view of the above facts and circumstances, I do not find any illegality in the impugned order. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

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