

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.382 of 2016

- =====
1. Bhutti Yadav Son of Deonandan Yadav.
 2. Radhe Shyam Yadav Son of Bhutti Yadav.
 3. Satyendra Yadav Son of Bhutti Yadav.
 4. Harkesh Yadav Son of Bhutti Yadav.
 5. Maya Devi, wife of Bhutti Yadav, all residents of village-Moti Tola, P.S.-
Thakraha, District-West Champaran.

.... Appellant/s

Versus

Sri Kant Yadav Son of late Bank Yadav Resident of village- Moti Tola, P.S.-
Thakraha, District- West Champaran.

... Respondent/s

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Appearance :

For the Appellant/s : Mr. Zainul Abedin, Adv.

For the Respondent/s : Mr. Anwar Karim, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 21-03-2017

Heard learned counsel for the parties.

By the impugned order, the learned court below has rejected the petition filed by the defendant in the suit for partition praying for leading evidence.

After considering the submissions, materials on record and keeping in view the suit being for partition, the submission on behalf of the petitioner appears to have some substance that the last opportunity may be granted to the petitioners to lead evidence. This Court, therefore, is inclined to allow the prayer of the petitioners for leading evidence within the time fixed by the court but in order to balance the



equity after imposing cost.

Accordingly, this application is allowed and the impugned order is set aside. The defendant-petitioners are allowed to complete their evidence within four weeks from the next date fixed in the suit. The learned court below is directed to proceed thereafter in accordance with law. This order shall be subject to the payment of cost of Rs. 10,000/- to be paid to the plaintiff. The amount of cost must be deposited by the defendant-petitioners in the learned court below on the next date fixed and the plaintiff-respondent shall be entitled to withdraw the same in accordance with law.

(V. Nath, J)

Devendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.03.2017
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