

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.247 of 2016

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1. Parichhan Rai Son of Late Janak Rai Resident of Village- Sondho Basudeo, P.S.- Goraul, District- Vaishali.

.... Petitioner/s

Versus

1. Nathuni Rai, Son of Tuntun Rai
2. Ram Dayal Rai, Son of Late Janak Rai Both residents of Village- Sondho Basudeo, P.S.- Goraul, P.O.- Sondho, District- Vaishali.
3. Chamelia Devi wife of Sri Lala Rai, Daughter of Late Janak Rai, Resident of Village- Rajauli, P.S.- Hajipur Sadar, P.O.- Senduari, District- Vaishali.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manish Chandra Gandhi

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

6 11-04-2018 Heard learned counsel for the petitioner.

The petitioner filed this petition against the order dated 11.03.2016 passed in Partition Suit No.635 of 2004 by which the Court directed the plaintiff to produce evidence first.

The learned counsel for the petitioner submits that earlier vide order dated 08.08.2014, the Court directed the defendants to adduce evidence. The suit remained pending on many dates with a direction to the defendants to adduce the evidence first. Thereafter, the defendant filed petition on 26.05.2015 that the plaintiff filed suit for partition. The defendant did not put forth any case for partition, therefore, it is the plaintiff



who has to adduce evidence first. Accordingly, vide order dated 11.03.2016, the plaintiff was directed to adduce evidence first. Learned counsel for the petitioner assailed the order on the ground that the earlier order was recalled without any rhyme and reason.

I find no reason to interfere with the order. It appears that without any formal order asking the defendants to adduce evidence, the defendants were asked to adduce evidence. When the defendants brought this fact to the notice of the Court by filing a petition that on the facts and circumstances of the case, the plaintiff be first directed to adduce evidence, the court passed the order impugned which is in accordance with the provision as contained in Order 18 of C.P.C.

Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

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