

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21729 of 2014

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Md. Aftab Alam @ Aftab Alam Dewan & Anr

.... Petitioner/s

Versus

Bibi Zainab Khatoon & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
Mr. Ranjeet Kumar Mishra, Advocate

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 27-06-2018

Petitioners before this court are defendants of Partition Suit No.32 of 2011 pending in the court of Subordinate Judge III, Bettiah (West Champaran). They have filed this writ application for setting aside the order dated 05.08.2014 whereby and whereunder the learned court below refused to reject the plaint under the provision of Order 7 Rule 11 of C.P.C.

2. Heard learned counsel for the petitioners and perused the record.

3. From perusal of impugned order and documents on record, I find that the respondent (plaintiff) filed the suit for partition of her ancestral property measuring 16 bigha of land. The respondent (plaintiff) in support of her claim has filed khatian and photocopy of some documents. The petitioners (defendants) by filing petition had prayed to dismiss the suit as the plaintiff did not file all the documents



relating to the disputed land. The court below rejected the said petition observing that all the relevant documents have been filed by the plaintiff and if any document which is necessary for adjudication of suit is not filed by the plaintiff, the plaintiff would be non-suited. The court below finding the petition not maintainable has rightly rejected the same.

4. In view of above facts, I do not find any merit in the present application and is accordingly dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.07.2018
Transmission Date	

