

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1921 of 2017

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1. Sri Dayal Narayan Singh, S/o Late Sheochandra Singh, Resident of Village- Doripar, P.S.- Masaurhi, District- Patna at present residing at Village- Paimarghat, P.S. Punpun, District- Patna.

.... Petitioner/s

Versus

1. Smt. Dharamshila Devi, W/o Sri Hardeo Singh, Resident of Village- Ushamanchak, P.S.- Masaurhi, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhay Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 24-07-2018 Heard learned counsel for the petitioner.

The petitioner is aggrieved by the order dated 30.03.2017 passed by Sub Judge VI, Patna by which the petition of the petitioner for review of the order dated 22.06.2016 has been dismissed.

The petitioner is the plaintiff in Partition Suit No.261 of 2003. Partition suit was dismissed on 26.04.2010. The petitioner filed Title Appeal No.44 of 2010. The appellate court set aside the judgment and decree of the trial court and remanded the case to dispose of the suit after hearing the parties and to pass order afresh. On remand, the learned trial court directed the defendant to adduce evidence by order dated 19.09.2015. The plaintiff filed the



petition on 22.06.2016 to review the order dated 19.09.2015 asserting that the appellate court did not ask the trial court to take evidence of the defendant who left taking steps after his appearance. The appellate court directed the trial court to consider the evidence of the plaintiff and pass order after hearing both sides. The hearing of both sides does not mean that the defendant shall be directed to produce evidence who at the first instance failed to adduce any evidence but I find that once the appellate court remanded the case after setting aside the order of the trial court for passing order afresh after hearing the parties, the court has rightly directed the defendant to adduce evidence.

Therefore, I do not find any jurisdictional error in the order impugned. Accordingly, the same is dismissed.

Since the suit is very old, the trial court shall make efforts to dispose of the suit itself within six months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

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