

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.76 of 2020**

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1. Wing Commander (Retd.) Kanak Singh son of late Maharaj Kumar Vishwanth Prasad Singh @ Vishwanath Singh, resident of Show Boat Kothi, Dumraon, P.O.- Dumraon Textiles, P.S. Dumraon, District- Buxar- 802136.
 2. Mayur Singh son of late Maharaj Kumar Vishwanath Prasad Singh @ Vishwanath Singh resident of Show Boat Kothi, Dumraon, P.O.- Dumraon Textiles, P.S. Dumraon, District- Buxar- 802136.

... .. Defendants 1st Set/Petitioners

Versus

Divyadip Singh son of late Maharaj Kumar Vishwanath Prasad Singh resident of Show Boat Kothi, Dumraon, P.O.- Dumraon Textiles, P.S. Dumraon, District- Buxar- 802136.

... .. Plaintiff/Opposite Party

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Appearance :

For the Petitioner/s : Mr. K.N. Singh, Sr. Advocate
Mr. Sriram Krishna
Dr. Kamal Deo Sharma, Advocates.

For the Opposite Party:

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 16-01-2020

The present application has been filed “*for setting aside the order dated 14.08.2019 passed by Shri Kailash Joshi, the learned Court of Sub-Judge, 1st, Dumraon in Title Partition Suit No. 34/2019 whereby the learned Court below vide the impugned order dated 14.08.2019 has been pleased to allow the injunction petition dated 05.04.2019 filed by the plaintiff/opposite party herein along with the order of status quo.*”

2. After some arguments and on being pointed out the provisions of Order XLIII Rule-1(r) of the Civil Procedure Code providing for an appeal against an order in the nature of the



impugned order and hence non-maintainability of the present application, learned Senior counsel appearing on behalf of the defendant 1st set/petitioners seeks permission to withdraw the application with liberty to take recourse to any remedy as may be available to them in accordance with law.

3. Permission is accorded. The application is dismissed as withdrawn with the aforesaid liberty.

4. It is made clear that in case such an appeal is filed, the concerned authority would have regard to the present proceeding being pursued by the defendant 1st set/petitioners, while considering any available plea relating to condonation of delay, if raised.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.01.2020
Transmission Date	N.A.

