

In the Court of : **SUB-JUDGE-I, BAKHRI, BEGUSARAI**  
Present: **MANOJ KUMAR SINGH, CIVIL JUDGE (Sr. Div.)**  
**Title Suit No.-162/1994, CIS Reg. No.-162/1994**



In the matter of-

Anandi Yadav &amp; Ors.

..... Plaintiffs

BRBE22000011994

Vs.

Puran Yadav &amp; Ors.

..... Defendants

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	09.01.26	<p>Parties are in attendance. Today the case record is put up before me for order after hearing on the petition dt.- 11.12.25 under Sec.-151 of CPC on behalf of defendant no.-07 &amp; 08. Plaintiff's Rejoinder dt.-03.01.26 is present on record.</p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p>Present petition dt.- 11.12.25 under Sec.-151 of CPC on behalf of defendant no.-07 &amp; 08 submitting therein that the present suit is fixed for Argument. Defendant no.-07, Lohar Yadav, and Defendant no.-08, Dinesh Yadav, son of Ramdhari Yadav, are parties to this suit. Defendant no.-07 and 08 have been residing outside for a long time for their livelihood. They had no knowledge of the present suit. Meanwhile, a written statement was submitted on their behalf using their fake thumb impressions. When Defendant no.-07 and 08 became aware of the suit on 13.08.2022, they filed a petition on 28.08.2022 to reject the previously submitted written statement. But the same was rejected vide order dated 14.08.2024. An appeal against this order has already been filed by the opposing respondents in the Hon'ble High Court, Patna, and is currently under consideration. The applicants could not present evidence from their side in the present suit. Defendant no.-07 and 08 wish to present their evidence, which is necessary in the interest of justice. If Defendant no.-07 and 08 are not granted permission to present evidence, they will not be able to properly present their side the before court. Ld. counsel made prayer to grant permission to Defendant no.-07 and 08 to present their evidence.</p> <p>The Ld. Counsel of plaintiff opposed the petition dt.- 11.12.2025 through rejoinder dated 03.01.26. The ld. counsel of plaintiff submitted that the petition of defendant no. 7 and 8 dated 11.12.2025 is not maintainable under the facts, circumstances, and stage of the present suit. The present suit is a partition suit and evidence of both the parties have been adduced and thereafter about 9 years ago the evidence of defendants have been closed and the record has been posted for final argument since 2016. On 26.07.2023 a petition was filed on behalf of present defendant no. 7 and 8 to exhibit mark the document which had been allowed and the document were exhibit marked. Defendant no. 6, the father of defendant no. 7 and 8, has already adduced his oral and documentary evidence as such it is not needed to allow the present petition to adduce any further evidence of defendant no. 7 and 8. It has been submitted that it has neither been prayed</p>	

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	<b><u>Continued</u></b> <b>09.01.26</b>	<p>to recall any order of any date on which evidence has been closed nor it has been averred that what type of evidence are to be adduced in the petition. The real fact is that the defendant no. 7 and 8 want to prolong the case without any reasons as several Bigha land of present plaintiff Maheshwar Yadav has been taken in possession forcefully by the defendant no. 7 and 8. They are appropriating the usufructs of the same. If the present case is disposed of, the present defendant no. 7 and 8 would be abstained from getting unlawful advantage of cultivating this land of plaintiffs. The present defendant no. 7 and 8 have been lingering the present suit by filing one after another frivolous petitions since 2018 which would be apparent and clear from the perusal of case record. Ld. counsel for plaintiffs prayed to reject the petition dt. 11.12.2025 with heavy cost.</p> <p>Heard, carefully considered the rival submissions, and perused the record. From perusal of the record, it transpires that it is a suit for partition and presently at the stage of argument. Defendant no.-06 to 08 appeared in the suit on 02.07.2001 and filed a petition to recall the order of <i>ex-parte</i> proceeding passed against them as well as sought permission to file their written statement. It would be pertinent to mention here that defendant no.-06 is father of the defendant no.-07 and 08. On 24.08.2001 the petition dt.-02.07.2001, filed by defendant no.-07 and 08 along with their father, defendant no.-06, was allowed with cost of Rs. 500/- and they have been permitted to file their written statement. They have filed their written statement on 26.09.2001 after payment of cost. Issues were settled in this suit on 17.02.2012. Plaintiffs' evidence was closed on 03.07.2012 and defendant no.-06, Ram Japo Yadav, father of defendant no.-07 and 08, was examined as DW-1 on 17.07.12. The defendants' evidence was closed on 18.08.16. Meanwhile, the defendant no.-07 and 08 were continuously been represented through their learned counsel before court. On 23.08.22 the defendant no.-07 and 08 filed a fresh Vakalatnama along with a petition regarding their false signature and thumb impression on written statement filed on their behalf. The rejoinder for the same was filed by the plaintiff on 15.04.23 and after hearing both parties the court has rejected the petition dated 23.08.22 on merit vide order dt.-14.03.24 with following observation-</p> <p style="text-align: center;"><i>"Having heard the parties, perused the case record. On perusal it appears that, on 26.09.2001 a joint written statement has been filed on behalf of these petitioner-defendants along with their father, which</i></p>	

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	<b><u>Continued</u></b> <b>09.01.26</b>	<p>witnesses they have not turned up before court and eventually the defendants' evidence was closed.</p> <p>Admittedly, the proceedings of this suit is presently at the stage of argument. It is well settled that Order XVIII Rule 17 CPC empowers the Court to recall and examine any witness only for the purpose of clarification of ambiguities in the evidence already recorded. The provision does not confer a right upon the parties to re-open evidence or to fill lacunae in their case. In <i>K.K. Velusamy v. N. Palanisamy [(2011) 11 SCC 275]</i>, the Apex Court further clarified that once evidence is closed, recall of witnesses cannot be permitted as a matter of course, and inherent powers under Section 151 CPC can be exercised only in exceptional circumstances to prevent miscarriage of justice.</p> <p>In the present case, the defendants have not demonstrated any ambiguity in the evidence already recorded which requires clarification by the Court. The application is clearly intended to re-open the evidence stage and to delay the proceedings, which is impermissible. Since the matter is already at the stage of final arguments, permitting recall would not only defeat the principle of finality of proceedings but also cause undue prejudice to the plaintiff and delay the adjudication of the suit. In view of the above settled position of law, and considering that the present application discloses no ambiguity requiring clarification, but is merely an attempt to fill gaps in the defendants' case, this Court finds no merit in the petition.</p> <p><i>Further, this suit is more than 30 Years old. The evidence of the plaintiffs and defendants have already been closed and the record is pending for defendant's argument since 18.08.16. In light of Letter No. 49769-49805 dated 22.08.2022 of Hon'ble High Court, Patna, communicated vide Memo No.11042-11047/Admn. dt.25.08.2022 of I/c Registrar, Civil Court, Patna, it has been directed to ensure early disposal of oldest cases on priority basis.</i></p> <p>Hence, taking consideration the above discussed facts and circumstances of the suit, the petition dt.- 11.12.25 under Sec.-151 of CPC on behalf of defendant no.-07 &amp; 08 is hereby <b><u>Rejected</u></b> and accordingly disposed of.</p> <p>Put up on ..... for further proceedings.</p> <p style="text-align: right;"><b>(Manoj Kr Singh)</b> Sub-Judge-I, Bakhri, Begusarai.</p>	