

In the Court of Md. Sharique Haider,
Munsif, Gogari
T.S. No. — 71/19
Narayan Chaudhary and Ors. — Plaintiff
Vs.

Babita Devi and Ors. — Defendant

10/1/24

ORDER

1. That in the petition dated 13-09-23, the petitioner states that the evidence is being adduced on behalf of the defendant no. 1. It is contended that three persons namely Babita Devi, Sanju Devi both also happen to be the parties to the suit and one Vinod Kumar Yadav who happens to be husband of Babita Devi have deposed in this case.

The petitioner states that Tez Narayan Yadav is suffering from prolonged illness, so he is not able to testify. Whereas, Anil Kumar Yadav has joined social services, therefore, he is not willing to depose as a witness. Further, in Para no. 2 and 3 of the petition, the petitioner-cum-defendant no. 1 argues that Vishnu Yadav, Late Mohan Yadav and Subodh Yadav, Late Masham Yadav need to be added as witnesses and in the interest of justice both witnesses need to be

ordered to depose according to new witness list.

2. That the plaintiff in the rejoinder to the petition, inter alia, states that the witness list dated 18-05-23 contains names of 12 witnesses out of which three witnesses submitted their written examination-in-chief on oath and still 9 witnesses are left to testify but the defendant failed to bring and ~~to~~ the witnesses on the date, moved this application to waste time. In para no. 3 of the rejoinder, the plaintiff avers that the defendant has not sought permission to add the names of both witnesses.
3. That upon perusal of the petition and its rejoinder and also giving a fair chance of hearing to both sides, this court finds that the record is at the stage of evidence on behalf of the defendant no. 1. Further, an order to add the names of the two witnesses would not prejudice the interest of the plaintiff as they can be cross-examined by the plaintiff. In para no. 2 and 3 of the petition, it is contended that Vishnu Yadav and Subodh Yadav need to be added as witnesses. The words " -- need to be added as witnesses --" implies "permission seeking" from the court. However, the court also finds

that the defendant no. 1 by this application
or petition caused delay in the proceedings
and therefore a cost of rupees 1200/-
is imposed ~~on them~~ ^{to} which is payable to the
plaintiff. The petition is allowed with
a condition that the previous witness
list be substituted with the new witness
list and the defendant no. 1 may
bring witnesses from the new witness
list only.

The petition, hence, allowed.


04/01/24
Munir