

**In the Court of Sub-Judge-I,
Madhubani
Title Suit No. 19 of 2018/C.I.S. No. (P.S. 7 of 2018)
Ghuran Pandit Vs. Ram Balak Pandit**

ORDER

21.12.2019 Today date is fixed for order. Attendance has been filed on behalf of plaintiff and defendants through their learned counsel.

A petition has been filed on behalf of defendant no. 2 to 4 on dated 05.04.2019. Copy of this petition has been served to learned lawyer for the plaintiff.

By this petition learned lawyer for the defendant no. 2 to 4 has prayed that this case has been fixed for ex-parte against these defendant no. 2 to 4 and they had no knowledge of the suit earlier and when they came to know about the case that the case was fixed ex-parte against them to file this present petition for contesting the suit. It is further stated that the negotiation between both parties regarding compromise of the suit is going on, due to this they could not appear in the suit and the case was fixed ex-parte against these defendants. He prays to recall the ex-parte order dated 05.07.2018.

Learned counsel for the plaintiff opposed this petition by filing reply to this petition on dated 16.05.2019. He submitted that the petition filed by the defendant no. 2 to 4 is not maintainable and it is fit to be rejected.

Having heard both the parties and after perusal of the case record it transpires that the defendant no. 2 to 4 appeared after issuing personal service of summon. That the case was fixed ex-parte on dated 05.07.2018 after that one plaintiff witness has been examined during the ex-parte evidence and thereafter, that defendant no. 2 to 4 filed the present petition on dated 05.04.2019. Although

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(Continued.....)

defendant had full knowledge of the case due to his personal service of summon but it is well settled law that the parties must be given opportunity to contest the suit for just and proper adjudication of the case on merit. Accordingly, in the light of above said facts and circumstances and interest of justice the above said petition dated 05.04.2019 is allowed after recalling the ex-parte order dated 05.07.2018 with cost of Rs.1000/- (rupees one thousand).

Case is fixed on 14.01.2020 for further proceedings.

Dictated

Rakesh Kumar Tiwari
Sub-Judge-I, Madhubani