

**In the Court of Sub-Judge-I,
Madhubani
Title Suit No. 225 of 2016/C.I.S. No. 156 of 2016
Tirpit Yadav Vs. Jogendra Sahu @ Yogendra Sahu and Ors.**

ORDER

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

A petition has been filed on behalf of plaintiff on dated 07.09.2019. Copy of this petition has been served to the other side.

Learned counsel for the plaintiff submitted that the present suit is running for plaintiff evidence and on dated 14.06.2019 the suit was fixed for plaintiff evidence but due to bad weather he could not produce the witness and filed time petition but on the same day Court was pleased to closs the evidence of plaintiff. It is further stated on behalf of plaintiff that the plaintiff want to examine himself and other witnesses for proper adjudicatin of the case. It is, therefore, prayed to recall the order dated 14.06.2019 for the ends of justice.

A rejoinder has been filed on behalf of defendants on dated 21.09.2019 in which he stated that the petition filed by the plaintiff is not maintainable and fit to be rejected. That sufficient opportunity was given by the court for producing the evidence but plaintiff did not produce witness. Therefore, his evidence was closed on dated 14.06.2019.

Heard both parties and perused the case record, from perusal of the same it transpires that in this suit, issue was framed on dated 22.05.2017 and after that case was running for evidence of plaintiff. From perusal of the case record it also transpires that in this suit four formal witnesss have been produced by the plaintiff and many times, the time petition filed on behalf of plaintiff was allowed with the cost and on dated 13.03.2019 last chance was given to the plaintiff to

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bring the evidence but plaintiff did not produce any evidence in support of his case and lastly on dated 14.06.2019 the evidence of plaintiff was closed and record was put up for evidence of defendants. Although, plaintiff has given sufficient opportunity to produce the evidence but it is well settled law that the party must be given opportunity to contest the suit for just and proper adjudication of the case on merit. Therefore, in the interest of justice the above said petition is hereby allowed at the cost of Rs.1000/- (rupees one thousand) after recalling the order dated 14.06.2019 with condition that plaintiff must produce all remaining witness through day to day proceeding.

Case is fixed on 17.01.2020 for plaintiff evidence.

Dictated

Rakesh Kumar Tiwari
Sub-Judge-I, Madhubani