

Dadu Vs. Motilal

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SooperKanoon Citation : sooperkanoon.com/1046246

Court : Madhya Pradesh

Decided On : Mar-20-2013

Appellant : Dadu

Respondent : Motilal

Advocate for Def. : Shri. Ajay Ojha

Advocate for Pet/Ap. : Shri. Rajesh Dubey

Judgement :

1 W.P. No. 7316 Of 2011 20.3.2013 Shri Rajesh Dubey, learned counsel for the petitioner.

Shri Ajay Ojha, learned counsel for respondent No. 1.

None for other respondents.

Heard.

Order dated 17.3.2011 passed by II Civil Judge, Class II, Waidhan district Singrauli in Civil Suit No. 50 A/2009 is being assailed vide this petition under Article 227 of the Constitution of India. By impugned order the Trial Court closed the right of the petitioner/plaintiff to lead evidence.

The suit at the instance of petitioner is for declaration of title in respect of land bearing Khasra Nos. 118/4, 128/1, 130, 131, 169 situated in Waidhan, district

Singrauli.

On 17.3.2011 faced with certain difficulties in producing his witnesses petitioner/plaintiff filed an application under Order 17 Rule 1, Code of Civil Procedure, 1908 seeking adjournment.

The Trial Court taking into consideration the earlier adjournments rejected the petitioner/plaintiff's application and closed his right to lead evidence.

After hearing the learned counsel for parties at length, this Court is of considered opinion that in given facts of present case petitioner/plaintiff is entitled for one opportunity to lead evidence; however, not without compensating the respondents.

2 Therefore, while setting aside the order dated 17.3.2011, one opportunity is granted to the petitioner to lead evidence subject to payment of cost of Rs.500/ to respondent No. 1.

In view whereof on the next date fixed before the Trial Court, the plaintiff shall present all his witnesses for examination and crossexamination. In case of deviancy shown by the petitioner no further adjournment shall be granted and the trial court shall be at liberty to close the right of the petitioner.

Petition is allowed to the extent above.

(SANJAY YADAV) JUDGE Vivek Tripathi

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