

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPMS No. 2417 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Tribhuwan Chandra Pandey, Advocate, for the petitioner. The petitioner is a plaintiff in a Civil Suit No. 90 of 2008, Shri Praveen Mukherjee and another Vs. Shri Birendra Pratap, wherein, he has sought a decree for the grant of permanent injunction in relation to the property, which has been described at the foot of the plaint. The said Suit was decided by the learned Civil Court by the judgment and decree dated 31.03.2017. The plaintiff has preferred a Civil Appeal under Section 96 of the CPC, which has been numbered as Civil Appeal No. 29 of 2017, Shri Praveen Mukherjee and another Vs. Shri Birendra Pratap. Its' that during the pendency of the Civil Appeal, the applicant has filed an application, being paper No. 48A/1, praying the Appellate Court, that an appropriate direction may be issued to summon the records of the proceedings under Section 33/39 of the Land Revenue Act, for the purposes of effectively deciding the first appeal. The said application, i.e., paper No.48A/1, preferred by the petitioner before the Appellate Court has been rejected by the impugned order, observing thereof, that summoning of the records of the proceedings which were held under Section 33/39 of the Act, which are summary in nature, the records of the Court of Assistant Collector may not be necessary or could be treated to be necessary, under law to be summoned in a regular civil appeal, which itself has to be decided on its own merits. For a moment, even if, it is believed that the petitioner wants to place reliance in any document out of the proceedings of Case No. 1 of 2020-2021, under Section 33/39 of the Land Revenue Act, for the purposes of deciding the Civil Appeal, the appropriate recourse which was available to the petitioner, would have been to have filed on record

			the certified copy of the orders passed in revenue proceedings, rather than calling upon the Civil Appellate court to summon the records of the revenue case under Section 33/39, which are absolutely summary proceedings. Since the said application has been rejected by the impugned order and the rational which has been assigned by the Court while deciding the same by the impugned order dated 4th August, 2023, is that for the purposes of deciding a Civil Appeal, the proceedings of the revenue documents are not at all required to be summoned. The application has been rightly rejected, which calls for no interference. But having observed so, it will be without prejudice to the right of the petitioner to procure the certified copy of the orders from the competent Revenue Court and place reliance on the same before the Appellate Court, subject to the compliance of the provisions contained under Order 41 Rule 27 of the CPC. Subject to the aforesaid exception, the Writ Petition stands dismissed. (Sharad Kumar Sharma, J.) Dated 28.08.2023 Shiv
--	--	--	--