

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8116 of 2014

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1. Sukhdeo Choudhary son of late Gulabchand Choudhary resident of village - Deokuli, P.S. Bihta, District – Patna **Petitioner.**

Versus

1. Trigun Singh son of Ramdular Singh @ Krishna Singh resident of village - Deokuli, P.S. Bihta, District – Patna. **Defendant first party/Respondent.**

2. Shegha Choudhary son of late Gyanchand Choudhary resident of village - Deokuli, P.S. Bihta, District – Patna.

-Defendant Second party/ Respondents.

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Appearance :

For the Petitioner/s : Mr. Subhdeep Das

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

2 15-01-2015

Heard the learned counsel for the petitioner.

The writ application under Article 227 of the Constitution of India has been filed assailing the order dated 14.03.2014 denying the prayer of the plaintiff-petitioner for appointment of a Pleader Commissioner for making local inspection of the suit land.

From the records it transpires that the T.S.No.36/1990 has been filed by the plaintiff-petitioner for declaration of his title and removal of encroachment. After the evidence was led the matter was fixed for final argument on 11.07.2013 and thereafter the defendant concluded his final argument on 29.01.2014. It further transpires that thereafter the plaintiff-petitioner filed a petition on 13.02.2014 praying for appointment of a Survey Knowing Advocate Commissioner.

The learned court below has come to the conclusion that at the stage when the matter has been posted for final argument of the plaintiff, his prayer for appointment of Survey Knowing Pleader Commissioner cannot be entertained and has held that the petition filed by the plaintiff-petitioner was frivolous and only for the purpose to prolong the disposal of the matter.

The learned counsel for the petitioner has submitted that there is no limitation prescribed under Order 26 Rule 10A C.P.C. for appointment of a Pleader Commissioner and therefore there is no impediment before the court in appointing the Pleader Commissioner.

After considering the aforesaid facts and circumstances, this Court is not persuaded to align with the submission made on behalf of the petitioner. The suit has admittedly been fixed for final argument of the plaintiff. After the conclusion of the argument on behalf of the defendant, the prayer for appointment of a Survey Knowing Advocate Commissioner at this stage has rightly been turned down.

The writ application is, accordingly, dismissed.

(V. Nath, J)

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