

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.357 of 2014

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1. Ram Lakhan Paswan S/O Late Somar Paswan Resident Of Village- Seodana, P.S- Dhanarua, District- Patna.
2. Om Prakash Paswan S/O Late Rajendra Paswan Resident Of Village- Seodana, P.S- Dhanarua, District- Patna.
3. Jai Prakash Paswan S/O Late Rajendra Paswan Resident Of Village- Seodana, P.S- Dhanarua, District- Patna.
4. Ripu Kumar @ Ripu Paswan S/O Nitlal Paswan Resident Of Village- Seodana, P.S- Dhanarua, District- Patna.
5. Nandu Paswan S/O Late Nitlal Paswan Resident Of Village- Seodana, P.S- Dhanarua, District- Patna. **Petitioners.**

Versus

1. Bhuneshwar Choudhary S/O Late Deo Narain Choudhary Resident Of Village- Seodana, P.S- Dhanarua, District- Patna.
2. Sri Nirmal Kumar, Survey Knowing Advocate Commissioner, Lawyers' Association, Civil Court, Danapur, District- Patna. **Respondents.**

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Appearance :

For the Petitioner/s : Mr. Ramashish
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 13-01-2015

Heard the learned counsel for the petitioners.

The learned counsel for the petitioners has submitted that the T.S.No.02/04 has been filed for declaration of title and removal of encroachment and in that suit in view of the nature of the relief prayed the learned court has passed the order for appointment of Survey Knowing Pleader Commissioner. It has been further submitted that the writ was handed over to the Pleader Commissioner on 24.01.2009. It has, however, been canvassed that since thereafter up-till-now no report has been submitted by the said Pleader Commissioner. The learned counsel has also referred to his petition in that regard filed on 02.05.2013



(Annexure-3) in the suit stating the facts of unnecessary delay and praying for appointment of another Pleader Commissioner in the backdrop of the said facts for early disposal of the suit. It has, however, been again submitted that no order has been passed on the said petition and instead a letter has been issued by the learned court below on 23.08.2013 (Annexure-4) wherein the direction has been made to the said Pleader Commissioner to submit his report by 10.09.2013. It is the stand of the learned counsel for the petitioners that no report has still been submitted.

It is limpid from the facts disclosed on behalf of the petitioners that the suit has been filed in the year 2004 for declaration of title and removal of encroachment. From the contents of the letter dated 23.08.2013 (Annexure-4), it is transparent that the writ had been issued to the Survey Knowing Pleader Commissioner for measurement of the disputed land in the year 2009 and it is also transparent that the said Pleader Commissioner has failed to submit his report for a long period of 4 years and, as submitted by the learned counsel for the petitioners, till today. The facts are speaking for themselves and in this view of the matter, this Court directs the learned court below to pass appropriate order on the pending application filed on behalf of the plaintiff on 02.05.2013 without delay and dispose of the suit

expeditiously as sufficient delay has unnecessarily been caused. If the Pleader Commissioner has failed to submit his report up-till-now, the learned court below is directed to pass appropriate order in order to ensure the effective and substantial disposal of the suit by appointing another Pleader Commissioner and concluding the hearing without further delay.

It is noted that this order has been passed without hearing the defendant-respondents as in view of the nature of the direction issued as above, this Court does not find necessary that the respondents be heard.

The writ application is disposed of with aforesaid direction.

(V. Nath, J)

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