

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.379 of 2016

- =====
1. Amresh Tiwary,
 2. Arvind Tiwary, Bith Sons of Harendra Tiwary, Resident of Village- Ahiyapur, P.O.- Karathi Bazar, P.S + District- Gopalganj.

.... Petitioners

Versus

1. Ratan Jyoti Devi, Wife of Ragho Dubey,
2. Kamlawati Devi, Wife of Shri Shyam Baihari Dubey, Both Resident of Village- Jhirwa, P.O.- Jhirenwa, P.S- Unchkagaon, District- Gopalganj, At present resident of Village- Penulakhas, P.O.- Jagarnatha, P.S.- Unchkagaon, District- Gopalganj.

.... Respondents

=====

Appearance :

For the Appellant/s : Mr. Dhananjay Kumar Tiwary

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL JUDGMENT

Date: 19-08-2016

The learned counsel for the petitioners submitted that the Miscellaneous Appeal has been filed by the respondents against the order whereby the Pleader Commissioner's report has been confirmed. Therefore, the petitioners filed an application before the Appellate Court for dismissing the Miscellaneous Appeal on the ground that it is not maintainable but the learned court below rejected the application holding that it is a clerical error.

From perusal of the impugned order it appears that the learned lower court has held that Title Appeal is maintainable against the order whereby the Pleader Commissioner's report has been confirmed and, therefore, directed that Miscellaneous Appeal

No. 22 of 2015 to be re-registered as Final Decree Appeal No. 22 of 2015.

It is settled principles of law that the order confirming the Pleader Commissioner’s report finally decides the Partition Suit and it is, in fact, a final decree. The subsequent engrossment of the decree on stamp paper is the act of the Office.

In the above view of the matter, I find no reason to interfere with the impugned order. This Civil Miscellaneous Application is, accordingly, dismissed.

(Mungeshwar Sahoo, J)

S.Pandey/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.08.2016
Transmission Date	