

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.611 of 2016**

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Hanuman Prasad Poddar

.... Appellant/s

Versus

Smt.Parvati Devi

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jitendra Kishore Verma

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 16-08-2016

Heard learned counsel Mr. Jitendra Kishore Verma for
the plaintiff-petitioner.

Perused the impugned order dated 25.02.2016 passed by
Execution Munsif, Muzaffarpur in Title Suit No.68 of 1996
whereby the learned court below has rejected the application filed
by the petitioner under Order 39 Rule 7 of the Code of Civil
Procedure for appointment of Pleader Commissioner.

It appears that the plaintiff-petitioner has filed the suit for
declaration that the lease has not expired and terms of the lease is
binding on the defendant-respondent. During the pendency of the
suit injunction application was filed praying for restraining the
defendant from exhibiting cinema as the defendant had already
dispossessed the plaintiff-petitioner from possession of the cinema
hall forcibly. This application was rejected and thereafter
subsequently on the basis of subsequent event that the defendant-



respondent when started demolishing cinema hall the plaintiff-petitioner again filed injunction application and at the same time filed application under Order 39 Rule 7 of the Code of Civil Procedure for appointment of Pleader Commissioner to verify the present status of the cinema hall. By the impugned order in one part the court below rejected the injunction application and another part, has rejected the application for appointment of Pleader Commissioner. This part of the order whereby the appointment of Pleader Commissioner has been rejected is under challenge in this application under Article 227 of the Constitution of India.

Admittedly the plaintiff-petitioner admits the fact that now he is not in possession of the suit property i.e. cinema hall. According to the petitioner himself cinema was being run by the defendant-respondent. According to the plaintiff-petitioner himself, now the defendant is demolishing cinema hall. The petitioner is lessee. In such circumstances, the application was filed for appointment of Pleader Commissioner under Order 39 Rule 7 of the Code of Civil Procedure. The learned court below held that at this stage it is not necessary to appoint the Pleader Commissioner in view of the relief claimed by the plaintiff-petitioner.

In view of the above facts and circumstances of the case, in my opinion, it is not a case for interference in supervisory jurisdiction under Article 227 of the Constitution of India. Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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