

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2929 of 2016

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Md. Nehaluddin

.... Petitioner/s

Versus

Surendra Sharma & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 11-04-2016

Heard learned counsel, Mr. Dronacharya, appearing for the petitioner and learned counsel, Mr. S.N. Mishra, appearing for the respondents.

2. The lower appellate court i.e Additional District Judge, 3rd , Khagaria by order dated 07.01.2016 rejected the application under Order 26 Rule 9 C.P.C. filed by the plaintiff-appellant in T.A. No. 10 of 2004.

3. It appears that the plaintiff has filed the suit for declaration of title on the basis of the registered sale deed. There is no dispute between the parties regarding encroachment overlapping the suit property. The court below on the basis of pleadings of both the parties and evidences adduced by the parties has passed the judgment, which is under challenge before the appellate court.

4. From perusal of the impugned order, it appears that

the court below considering the cases of both the parties and the application filed by the petitioner under Order 26 Rule 9 C.P.C. held that in the present facts and circumstances of the case, it is not necessary to appoint Pleader Commissioner for finding out as to how many *Sisam* trees are there or whether there is *Adda* or not etc. etc.

5. In view of the above facts and circumstances, particularly, when the plaintiff appellant is claiming title on the basis of sale deed, it is not necessary to appoint Pleader Commissioner and further the lower appellate court has assigned good reason. As such, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, the writ application is dismissed.

(Mungeshwar Sahoo, J)

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