

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10146 of 2014

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Ganga Singh son of late Ram Ishwar Singh, resident of village-Gobardhanpur
Kanap Tole-Bhaw Bigha, P.O. Kanap, P.S. Daud Nagar, District-Aurangabad,
Bihar.

.... Petitioner/s

Versus

1. Lalan Prasad Singh @ Lalan Singh.
2. Dinesh Prasad Singh.
3. Binay Kumar Singh.
4. Binod Kumar Singh, all sons of late Chandradeep Singh.
5. Shitala Devi wife of late Ramesh Prasad Singh.
6. Manoj Kumar.
7. Saroj Kumar, both sons of late Ramesh Pd. Singh.
8. Sheo Kumar Singh son of late Shaligram Singh, all resident of village-Chaurahi,
P.O. Chaurahi, P.S. Haspura, District-Aurangabad.
9. Srimati Devi wife of Babulal Singh, resident of village-Chaurahi, P.O.-
Chaurahi, P.S. Haspura, District-Aurangabad.
10. Yadu Singh.
11. Ramanand Singh, both sons of late Ram Ishwar Singh.
12. Surendra Singh.
13. Arvind singh @ Dayanand Singh both sons of late Badri Singh.
14. Sarswati Devi wife of late Rajendra Singh.
15. Santosh Kumar.
16. Ranjit Kumar, both sons of late Rajendra Singh all resident of village
Gobardhanpur Kanap Tole-Bhaw Bigha, P.O. Kanap P.S. Daud Nagar, District-
Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 21-06-2016

Heard learned counsel for the petitioner.

Questioning the legal sustainability of the impugned order by which the learned court below has allowed the prayer of the plaintiffs for appointment of Survey Knowing Pleader Commissioner, the present application under Article 227 of the Constitution of India has been filed.

Learned counsel for the petitioner has submitted that the learned court below has not acted in accordance with law in appointing the Pleader Commissioner as the disputed facts can be decided on the basis of the documents and evidence to be adduced in the suit. It has also been submitted that the suit has been filed for declaration of title by the plaintiffs and therefore also the appointment of Pleader Commission was not required.

After considering the submissions and the materials on record, it is evident that there is a dispute on the fact as to whether the house of the plaintiff stands over plot no. 816 or not as according to the plaintiff his house is situated over that plot which fact has been disputed by the defendants. The learned court below after considering the facts and circumstances of the case has allowed the prayer of the plaintiff for appointment of a Survey Knowing Pleader Commissioner. This Court has not been persuaded to find that the discretion exercised by the learned court below in appointment of

Pleader Commissioner is vitiated in any manner. As such, this Court is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India.

The present application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.08.2016
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