

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6762 of 2015

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Md. Aftab Khan

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Mahtab Ahmad

For the Respondent/s : Mr. Nasim Yahya- Gp13

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 01-04-2016

Heard learned Senior counsel, Mr. Mahesh Narayai

Prasad, appearing for the petitioner and learned counsel A.C. to
G.P.-13 appearing for the respondents-State.

2. Perused the order dated 12.02.2014 passed by the
learned Sub-Judge-VII, Sasaram in T.S. No. 226 of 2013. It
appears that the suit was filed by the plaintiff for declaration of the
title and for declaration that the Majar (grave yard) is the ancestral
grave yard of the plaintiff. The State of Bihar-defendant filed
contesting written statement alleging that in fact, the suit land is
Gairmazarua and grave yard of the plaintiff is outside of
Gairmazarua. The court below found further that since the grave
yard has been admitted by the state authority, it will not make any
difference if the Pleader Commissioner is appointed and it is not
necessary to appoint Pleader Commissioner for giving physical
features of the grave yard.

3. Admittedly, still the evidence of parties have not yet started, therefore, appointment of Pleader Commissioner will amount to collection of evidence.

4. In view of the finding recorded by the court below, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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