

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11056 of 2014

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1. Bimlesh Kumar Singh Son of Late Kapildeo Singh
2. Kedar Nath Singh Son of Late Kapildeo Singh
3. Santosh Singh Son of Late Surya Kumar Singh
4. Bipin Singh @ Bipin Bihari Singh Son of Late Surya Kumar Singh All resident of village- Salempur Pokhra, Post- Office- Dharupur, Police Station- Bikramganj, District- Rohtas

.... Petitioners.

Versus

1. Awadhesh Singh Son of Late Sipahi Singh
2. Binod Singh Son of Sri Awadhesh Singh
3. Manoj Singh Son of Sri Awadhesh Singh
4. Pramod Singh Son of Sri Awadhesh Singh
5. Saroj Singh Son of Sri Awadhesh Singh
6. Manjee Singh Son of Sri Awadhesh Singh All resident of village- Salempur Pokhra, Post- Office- Dharupur, Police Station- Bikramganj, District- Rohtas

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binod Bihari Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 19-07-2016

V.Nath, J.

Heard Mr. Binod Bihari Singh, learned counsel

appearing for the petitioners.

The petitioners are aggrieved by the impugned order by which the learned court below has declined the prayer of the petitioners for directing the pleader commissioner to submit his report on additional points as well, as prayed by the petitioners in his petition dated 22.01.2014.

From the facts as appearing from the application as well as the submission on behalf of the petitioners, it is manifest that a



pleader commissioner has already been appointed for submitting his report on the points as submitted by the court. By making the prayer in his petition dated 22.01.2014 the petitioners have prayed before the court for a direction to the pleader commissioner to submit his report on the additional three points as enumerated in the said petition. By the impugned order the learned court below has turned down the prayer of the petitioners with regard to point no.1 as enumerated in his above petition holding that the prayer of the petitioners in this regard has already been declined by earlier order dated 04.04.2013.

The learned counsel for the petitioner has submitted that the learned court below has committed material irregularity in turning down the prayer of the petitioners as made in his petition dated 22.01.2014. It has been pointed out that the suit has been filed for removal of encroachment and therefore the report of the pleader commissioner on the additional points as suggested by the petitioners is essential.

After considering the submissions and perusal of the impugned order, this Court finds that the learned court below has passed the impugned order after considering the materials on record and has come to the conclusion that the similar prayer on behalf of the petitioners has already been rejected by order dated 04.04.2013. In this view of the matter, this Court is not inclined to interdict the

impugned order by invoking the jurisdiction under Article 227 of the Constitution of India.

The application is accordingly dismissed.

However, the petitioners shall be at liberty to raise objection in this regard if such occasion arises under Section 105(1) C.P.C.

(V. Nath, J)

Nitesh/-

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