

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16177 of 2015

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Sri Nagina Lal Choudhary

.... Petitioner/s

Versus

Jaglal Choudhary Sahkari Grih Nirman Samittee & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 21-06-2016

Heard learned counsel Mr. Dhananjai Mishra for the
petitioner.

The plaintiff filed the suit for declaration of title and possession and also prayed for injunction restraining the defendants from selling the suit property. Application under Order 26 Rule 9 of the Code of Civil Procedure was filed for appointment of Pleader Commissioner to verify the statement made by the defendants in their written statement to the effect that a pillar has been constructed by them on the land of the plaintiff. By the impugned order dated 06.02.2015 passed by the learned Subordinate Judge-IV, Patna City in Title Suit No.109 of 2013 has rejected the application.

It is admitted fact as has been mentioned in the impugned order that still issues have not been framed. The plaintiff has filed the suit for declaration of title and possession,

therefore, it is for the plaintiff to prove on the basis of evidence and, therefore, at this stage Pleader Commissioner cannot be appointed and if the Pleader Commissioner is appointed, it will amount to collection of the evidence for the plaintiff. Therefore, the learned court below has rightly rejected the application. Thus, I find no reason to interfere with the impugned order. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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