

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9655 of 2014

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Md. Nijam @ Nizam Son of Late Md. Washil Resident of Village Sanhaula, P.S-
Sanhaula, District- Bhagalpur.

.... Petitioner/s

Versus

1. Md. Irshad Alam S/o Late Md. Isha
2. Bibi Nahid W/o Late Khursid alam daughter in law of the Khurshid Alam
3. Md. Ashif S/o Late Khursid Alam
4. Bibi Anjum
5. Bibi Bhusra Both 4-5 Minor daughters of Late Khursid Alam represented
through their natural guardian next friend and mother Bibi Nashid All 1-5
residet of Village Tanakmas Srichak, P.S- Sanhaulla, District- Bhagalpur.
6. Bibi Nazni W/o Md. Ashlam Khan
7. Bibi Nasima W/o Md. Warish Khan Both 6-7 resident of Village Jabbar Chak,
P .S- Kotwali, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiwesh Chandra Mishra, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-05-2016

Heard learned counsel for the petitioner.

The plaintiff has filed this petition assailing the impugned
order by which the learned court below has rejected the prayer of the
plaintiff for appointment of Pleader Commissioner in view of the
assertion that the defendants are making construction over the suit
property.

The fact has not been disputed on behalf of the petitioner

that the suit has been filed for declaration of title and recover of possession over the suit land by the plaintiff-petitioner. The petition has been filed on the allegation that the defendants are making construction over the suit land. It is apparent that the defendants are admittedly in possession over the suit land and even if they are making construction over the suit land that will not make any change in the case of the plaintiff or will have any impact upon the case of the plaintiff. The learned court below has rightly held that by appointment of a Pleader Commissioner, the plaintiff-petitioner seeks to gather the evidence. This Court, therefore, is not inclined to interfere with the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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