

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5253 of 2016

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Khaliquzzman

.... Petitioner/s

Versus

Nasim Ahmad Ansari & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bal Govind Sharma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 29-03-2016

Heard learned Senior Counsel Mr. Raghiv Ahshan for
the petitioner.

The learned Subordinate Judge-III, Katihar rejected the
application filed by the present petitioner for appointment of
Pleader Commissioner in Title Execution Case No.05 of 1995 by
order dated 18.02.2016.

It is admitted fact that the eviction suit filed by the
plaintiff-respondent was decreed against the defendant of the suit.
For obtaining delivery of possession execution case was filed. In
the said execution case the present petitioner filed an application
under Order XXI Rule 97 of the Code of Civil Procedure which
was rejected by the executing court. Against that rejection order
dated 05.08.2014 the present petitioner filed C.W.J.C. No.16008
of 2014 before this Court. This Court after considering the case of
the petitioner and after perusing the pleadings in the eviction suit

dismissed the said writ application and, therefore, the petitioner's objection has already been disposed of finding that he is not claiming possession over the tenanted premises. By the application filed under Order XXVI Rule 9 of the Code of Civil Procedure the petitioner is praying for demarcating the purchased land of the plaintiff.

It may be mentioned here that this is not a partition suit and particularly when the eviction suit has been decreed and the execution case has been filed for eviction of the tenant, the petitioner's objection has already been dismissed. Now, therefore, there is no question of entertaining any application filed by the present petitioner arises and, therefore, the court below has rightly rejected the application. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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