

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14534 of 2013

=====

1. Smt. Raj Muna Devi Wife Of Sri Zamindar Singh Resident Of Village - Dhanaut,
P.S. - Char Pokhari, District - Bhojpur , At Present Residing At Balaji Nagar, New
Mainpura, P.O. + P.S. - Danapur, District - Patna.

.... Petitioner/s

Versus

1. Smt. Sulochana Devi Wife Of Sri Shivajee Prasad Choudhary Resident Of
Village - Balaji Nagar, New Mainpura, P.O. + P.S. - Danapur, District - Patna
2. Sri Shivajee Prasad Choudhary Son Of Diwali Prasad Choudhary Resident Of
Village - Balaji Nagar, New Mainpura, P.O. + P.S. - Danapur, District - Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. ARVIND PRASAD SINGH
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 15-12-2016

Heard learned counsel for the petitioner.

By the impugned order the learned court below has rejected the petition filed by the plaintiff on 23.10.2013 for appointment of the Pleader Commissioner for making local inspection and measurement of the land in dispute.

From perusal of the impugned order, it transpires that the suit has been filed by the plaintiff in the year 2011 and a petition was filed on 30.05.2011 for appointment of the Pleader Commissioner. However after the reply was filed by the defendant and even after the specific direction by the court to press the said application, the plaintiff petitioner did not choose to press the said application which was ultimately dismissed on 19.12.2012. The



learned court below has further also noticed the conduct of the plaintiff in not suggesting the issue for nearly ten dates and not producing the list of witnesses by further ten dates. Learned court below has passed the impugned order taking notice of the conduct of the plaintiff directing him to produce his witnesses at the earliest.

Learned counsel for the petitioner has submitted that the petitioner be granted last opportunity to get a Pleader Commissioner appointed to take the measurement of the suit land.

This Court however is not inclined to interfere with the impugned order in the facts and circumstances of the case by invoking its jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

However, it is observed, in view of the submission on behalf of the petitioner that there is no substantial progress in the proceeding of the suit, that the plaintiff shall be at liberty to produce his evidence and witnesses which may include the measurement report undertaken at the instance of the plaintiff through private Amin or any other appropriate person.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.12.16
Transmission Date	N.A.

