

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8350 of 2014

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Pramod Singh s/o Late Rupan Singh resident of village Tenduni, P.S.-
Bikramganj District- Rohtas

.... Petitioner.

Versus

1. Akhilesh Pandey
2. Pappu Pandey sons of Late Baldeo Pandey
3. Munna Pandey Minor son of Akhilesh Pandey under the guardianship of his natural father who is the guardian ad litem
4. Khushi
5. Shubham
6. Nidhi All minor daughters of Pappu Pandey under the guardianship of their natural father who is the guardian ad litem null
7. Rajdeo Pandey son of Late Kanhaiya Pandey
8. Munna Pandey son of Rajdeo Pandey
9. Baby
10. Sneha Both minor D/O Munna Pandey under the guardianship of father who is guardian ad litem All resident of village- Dharupur, P.S.- Bikramganj District- Rohtas

.... Respondents.

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Appearance :

For the Petitioner/s : Mr. Ajay Nandan Sahay

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

2 29-02-2016

Heard the learned counsel for the petitioner.

By the impugned order the learned court below
has rejected the petition filed on behalf of the petitioner praying
for not accepting the report of the pleader commissioner.

The facts are not in dispute that the plaintiff-
petitioner filed the suit for the relief of correction in the map.
During the pendency of the suit, on the prayer of the plaintiff, the
pleader commissioner was appointed for making local inspection

on the points including the points suggested by the plaintiff. The pleader commissioner submitted his report and thereafter the plaintiff-petitioner filed objection on 01.05.2013 praying for rejection of the report by the pleader commissioner. By the impugned order the learned court below has turned down the prayer of the petitioner.

The learned counsel for the petitioner has submitted that even prior to the submission of the report the plaintiff-petitioner has filed the petition raising question over the integrity of the pleader commissioner but no order has been passed on the said petition by the court below . It has also been submitted that the report submitted by the pleader commissioner was not correct and has not covered the points as suggested by the plaintiff-petitioner. In this backdrop, it has been submitted that the learned court below has failed to exercise its jurisdiction in not allowing the prayer of the petitioner for rejection of the said report.

After perusal of the impugned order and considering the submissions, it is manifest that the report by the pleader commissioner has been submitted after making local inspection /investigation on the prayer of the plaintiff-petitioner. According to the provision of Order 26 Rule 10(2) C.P.C. the

report submitted by the pleader commissioner becomes the part of the evidence on record and the parties to the suit have the liberty with the permission of the court to examine the pleader commissioner with regard to the matters touching upon the validity of the report. However, there is no provision entitling a party to make prayer for accepting or rejecting the said report of the pleader commissioner. This becomes prominent from the provision as contained in Order 26 Rule 14(2) C.P.C. where the court has been empowered to confirm, vary or set aside the report after hearing the objections by the parties. In this view of the matter, the learned court below has not committed error of jurisdiction or illegality in rejecting the prayer on behalf of the plaintiff-petitioner for rejection of the report of the pleader commissioner. This Court, therefore, is not inclined to interfere in the impugned order.

The writ application is, accordingly, dismissed.

(V. Nath, J)

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