

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19262 of 2015

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Dr. Guru Charan Singh

.... Petitioner/s

Versus

Smt. Sushila Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 21-06-2016 Heard the learned counsel, Dr. Amrendra Kumar, for the
plaintiff petitioners.

The plaintiff petitioner filed title suit No.65 of 2004 for declaration of title and confirmation of possession over the suit property purchased by him by registered sale deed. The defendants denied the title and there is dispute between the parties with regard to title and possession. A survey knowing pleader commissioner was appointed for submitting his report showing possession of the parties on portion of the suit property. The pleader commissioner submitted his report. Thereafter, he died. After closure of the evidence, the petitioner filed application for marking the said pleader commissioner report as an exhibit in the suit on the ground that pleader commissioner has died. The Court below by the impugned order has rejected the application filed by the petitioner on the ground that if it is marked as an exhibit, it will highly prejudice the defendant

respondent. Against this order, this application under Article 227 of the Constitution of India has been filed.

It is admitted fact that the suit has been filed by the plaintiff for declaration of title and confirmation of possession over the suit property which according to him has been purchased through registered sale deed dated 30.1.1998 measuring 1 katha. The plaintiff is claiming title and possession on the basis of the registered sale deed. On the contrary, the defendants denied the petitioner's title and possession. Therefore, now it is for the plaintiff to prove his case by producing evidence showing his possession over the suit property. So far question of possession is concerned, the report of the pleader commissioner is irrelevant. The Court has only the jurisdiction to decide as to which party is in possession of the suit property or portion of the suit property. Therefore, in my opinion, the pleader commissioner report is irrelevant in the matter. Therefore, the Court below has rightly rejected the same.

Thus, this writ application has got no merit and accordingly it is dismissed.

Sanjeev/-

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(Mungeshwar Sahoo, J)