

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9049 of 2014

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Shah Alam & Ors

.... Petitioner/s

Versus

Dr. Shah Azad Siddiqui & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Upendra Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

- 2 10-02-2016 1. Heard the learned counsel for the petitioner.
2. By the impugned order dated 15.04.2014, the learned Sub Judge Vth Patnacity in Title Eviction Suit No.17 of 2009 refused to appoint pleader commissioner under Order 26 Rule 9 CPC at the instance of the defendant tenant who is petitioner herein.
3. It appears that eviction suit was filed on the ground of default of payment and personal necessity under the Bihar Building (Least Rent and Eviction) Control Act 1982, the defendant petitioner appeared and filed written statement denying the relationship of landlord and tenant and also disputed the physical features of the suit property described in the plaint. Thereafter, he filed the application under Order 26 Rule 9 of the C.P.C. for appointment of pleader commissioner. The learned

Court below found that there is no property dispute between the parties. Admittedly, in the eviction suit, the only point which has to be decided is whether there is relationship of landlord and tenant between the parties and whether the plaintiff is able to prove the ground raised by him for the eviction of the tenant. In such circumstances there is no question of appointment of pleader commissioner arises and, therefore, the Court below has rightly rejected the said application.

4. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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