

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1150 of 2016**

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Ravindra Rai & Ors

.... Appellant/s

Versus

Pawan Kumar Sah & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shilpi Keshri

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 23-11-2016

Heard learned counsel, Mr. Ashok Kumar Keshri,
appearing for the petitioners.

2. This application under Article 227 of the Constitution of India has been filed against the part of the order dated 02.06.2016 passed by the Sub-Judge-7th, Vaishali at Hajipur in T.S. No. 482 of 2011, whereby the learned court blow rejected the application filed by the petitioners for appointment of Pleader Commissioner.

3. It appears that the plaintiffs-petitioners filed the suit for declaration of title and recovery of possession of the suit property. The petitioners also prayed that the construction made by the defendants may be removed and the possession may be delivered.

4. In view of the relief claimed by the plaintiffs-petitioners, they are required to prove title then only they will

be entitled for recovery of possession and for deciding as to whether the plaintiffs have got title over the suit property or not, the appointment of Pleader Commissioner is not at all necessary.

5. Learned counsel for the petitioners submitted that since the amendment was allowed, therefore, it is necessary for appointment of Pleader Commissioner as the defendants are changing the location by amendment. In my opinion, on the pleading of the defendants, the appointment of Pleader Commissioner cannot be made. The onus is on the plaintiffs to prove their title and for considering their title, the appointment of Pleader Commissioner is not necessary. Moreover, it is admitted fact that still today issues have not been framed and, therefore, the petitioners cannot be allowed to collect evidence by appointment of Pleader Commissioner. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous application is dismissed.

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(Mungeshwar Sahoo, J)