

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.469 of 2016

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Mr. Nematullah Son of Late Abdullah, Resident of Mohalla A/51 Ali Nagar
Anishabad, Police Station Gardanibagh, District and Town Patna, PIN 800001.

.... Appellant/s

Versus

1. Mr. Mantu Kumar Son of Mr. Rajendra Prasad, Resident of M/S Jagdamba Seed, Rajendra Niketan, Jamal Road, Police Station Kotwali, District and Town Patna. PIN- 800001.
2. Smt. Vijay Rani Agrawal, W/o Late Rajendra Prasad Agarwal.
3. Smt. Nishi Priya @ Nishi Agrawal, D/o Late Rajendra Prasad Agarwal.
4. Mr. Manish Priyadarshi S/o Late - Rajendra Prasad Agarwal. All are resident at Rajendra Niketan Jamal Road, P.S. Kotwali, District and Town, Patna.
5. Mr. Niraj Kumar, S/o Late- Jagdish Sao.
6. Smt. Asha Devi, W/o Mr. Niraj Kumar.
7. Mr. Sunil Kumar Gupta, S/o Late- Jagdish Sao.
8. Smt. Shobha Devi W/o Mr. Sunil Kumar Gupta, All are resident of Mohalla near Ranipur Snagatpar, P.S. Mehendi Ganj, Patna city, District and Town Patna, At present residing at M/S Green Agro Seeds, Rajendra Niketan, Jamal Road, P/s Kotwali, District and Town Patna.
9. Smt. Minat Nisha W/o Mr. Nematullah, R/o Mohalla A/51 Ali Nagar, Anishabad, P/s Gardanibagh, District and Town Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Subroteswar De, Adv.

For the Respondent/s : Mr. Kaushal Kishore, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 11-05-2017

Heard learned counsel for the parties.

This application has been filed by the defendant-



petitioner in the suit against the order by which the learned court below has appointed a Pleader Commissioner to find out real status of the suit premises.

The suit was filed by the plaintiff-respondent for declaration that the defendant-petitioner would not evict him from the suit shop in absence of decree in accordance with law. During the pendency of the suit, the plaintiff-respondent filed a petition in the court complaining that the defendant-petitioner was adamant to demolish the shop in question and in fact, had already demolished the second floor of the building. By the impugned order, the learned court below has allowed the prayer of the plaintiff-respondent for appointment of the Pleader Commissioner to make local inspection and submit a report with regard to the status of the shop in question.

Learned counsel for the petitioner has submitted that the defendant-petitioner would not demolish the shop in occupation of the plaintiff-respondent as tenant during the pendency of the suit. It has, therefore, been contended that the appointment of a Pleader Commissioner to find out the status of the shop in question is unnecessary as the demolition of the second floor of the building is a fact which is not denied by the defendant-petitioner.

Learned counsel for the plaintiff-respondent has submitted that in view of the stand on behalf of the defendant-



petitioner that the shop in question in occupation of the plaintiff-respondent as tenant would not be demolished during the pendency of the suit, there is no need for appointment of a Pleader Commissioner.

After considering the submissions and the stand on behalf of the petitioner that the shop in question would not be demolished during the pendency of the suit and the stand taken by the learned counsel for the plaintiff-respondent in this regard, this application is allowed and the impugned order is quashed. It is reiterated that the defendant-petitioner would not demolish the shop in question during the pendency of the suit.

(V. Nath, J)

Devendra/-

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CAV DATE	
Uploading Date	19.06.2017
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