

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.31 of 2017

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Smt. Kishori Devi & Ors

.... Appellant/s

Versus

Raj Kumar Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dronacharya

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 18-01-2017 1. Heard the learned counsel, Mr. Dronacharya, for the
petitioner.

2. Perused the impugned order dated 09.08.2016 passed by
Sub Judge I, Khagaria whereby the learned Court below has
rejected the application filed by the petitioner under Order XXVI
Rule 10 CPC for appointment of survey knowing pleader
commissioner.

3. It appears that earlier pleader commissioner was
appointed for local inspection under Order XXVI Rule 9 CPC.
Order XXVI Rule 10A provides that whether any questions arising
in a suit involves any scientific investigation which cannot in the
opinion of the Court be conveniently conducted before the Court,
the Court may, if it thinks fit necessary or expedient in the interest
of justice so to do, issue a commission to such a person as it thinks



fit, directing him to enquire into such question and report thereof to the Court.

4. It may be mentioned here that this is a simple suit for partition filed by the plaintiff-respondent. Preliminary decree has not yet been prepared. Therefore, there is no question of any appointment of survey knowing pleader commissioner arises at this stage because prior to passing preliminary decree, no question is involved for scientific investigation.

5. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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