

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.12 of 2016**

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Munna Prasad

.... Petitioner/s

Versus

Smt. Usha Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Nandan Sahay

For the Respondent/s : Mr.

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

ORAL ORDER

4 15-02-2017 Heard the learned counsel for the petitioner and the
learned counsel for the respondents.

Perused the impugned order dated 01.03.2016 passed
by learned Munsif, Bhabhua in Title Suit No.105 of 1996 whereby
the learned court below has allowed the application under Order
39 rule 7 C.P.C. filed by the defendants-respondents praying for
appointment of Pleader Commissioner.

Admittedly, the plaintiff-petitioner has filed this
aforesaid title suit for declaration that the sale deed dated
30.07.1991 executed in favour of the defendants-respondents is
null and void sale deed, therefore, in view of the nature of relief
claimed by the plaintiff, the sale deed is admitted by the plaintiff.
The question is whether the sale deed is void or not and for
deciding this question, as to whether the sale deed in favour of the
defendant 1st set is void or not, it is not necessary to appoint



Pleader Commissioner as for deciding this issue, the Pleader Commissioner has got no role to play. The court below has not considered in this light and, therefore, has wrongly exercised the jurisdiction in the manner not permitted by law. The suit is of the year 1996 and at this stage if the order is allowed to stand, it will occasion failure of justice and cause delay which will prejudice the plaintiff-petitioner.

Thus, this civil miscellaneous application is allowed. The impugned order is set aside and the court below is directed to decide the suit expeditiously.

(Mungeshwar Sahoo, J)

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