

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17951 of 2013

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Ram Uday Singh Son of Late Pitamber Singh Resident of Village - Lakho,
P.S. - Muffasil, Pergana - Ballia, Sub-Division, Sub - Registry and District -
Begusarai

.... Petitioner

Versus

1. Smt. Lakshmi Devi Daughter of Late Ram Bali Mahto and Late Kaleshwari Devi Resident of Village - Bazidpur Nawka Tola, P.O. - Bishnupur, P.S. - Muffasil, Pergana Balia, Sub-Division, Sub-Registry and District - Begusarai
2. Durgi Devi Daughter of Late Ram Bali Mahto and Late Kaleshwari Devi Resident of Village - Bazidpur Nawka Tola, P.O. - Bishnupur, P.S. - Muffasil, Pergana Balia, Sub-Division, Sub-Registry and District - Begusarai
3. Satya Devi Daughter of Late Ram Bali Mahto and Late Kaleshwari Devi Resident of Village - Bazidpur Nawka Tola, P.O. - Bishnupur, P.S. - Muffasil, Pergana Balia, Sub-Division, Sub-Registry and District - Begusarai
4. Suraj Mahto alias Sursa Mahto Son of Late Rambali Mahto Resident of Village - Lakho, P.O. - Lakho, P.S. - Muffasil, Pergana - Ballia, Sub-Division, Sub - Registry and District - Begusarai
5. Ashok Thakur Son of Late Gena Thakur Resident of Village - Lakho, P.O. - P.O. - Lakho, P.S. - Muffasil, Pergana - Ballia, Sub-Division, Sub-Registry and District - Begusarai

.... Respondents

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Appearance :

For the Petitioner : Mr. Pravin Chandra Prasad

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 23-11-2017 The petitioner before this Court is appellant of Title Appeal No.02 of 2011 pending in the Court of Additional District Judge-IV, Begusarai. He has filed this application to quash the order dated 26.07.2013 whereby and whereunder the learned Additional District Judge rejected the petition of this petitioner filed for appointment of Advocate Commissioner under Order 26 Rule 9 and 10(A) of the CPC.



2. Heard learned counsel for the petitioner and perused the record.

3. It appears that the petitioner's suit for specific performance of contract was dismissed against which the petitioner filed a Title Appeal No.02 of 2011. In the said appeal, he filed a petition under Order 26 Rule 1(a) and 10(a) read with Section 151 of the CPC stating therein that the court below has not given finding as regards possession of the petitioner over the suit land. At the appellate stage, the petitioner wants to get the suit land inspected by an Advocate Commissioner to get a report as regards the physical feature and existence of his house over the suit land. The petitioner admittedly has not acquired any right or title on the basis of alleged agreement. The court below considering the nature of relief claimed by the appellant has rejected his prayer. It is well settled that an advocate commissioner cannot be appointed for collecting the evidence and in this view of the matter, the impugned order does not suffer any illegality requiring any interference.

4. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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