

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1533 of 2016

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Subhas Singh

.... Petitioner/s

Versus

Ram Dayal Singh

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Kumar Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 25-01-2017 Heard the learned counsel for the petitioner and the
learned counsel for the respondent.

Perused the impugned order dated 07.01.2016 passed by
Sub Judge IV, Danapur in Title Suit No.211 of 2013 whereby the
learned court below has allowed the application for appointment
of Pleader Commissioner and also allowed the plaintiff to repair
the boundary wall.

The court below recorded clear finding that at present the
plaintiff has got his house over the same and the plaintiff is not
going to make any new construction.

The learned counsel for the petitioner submitted that
neither plot no.822 nor plot no.873 is the subject matter of the suit.
Therefore, the Court has no jurisdiction to appoint Pleader
Commissioner and permit the plaintiff to repair the boundary wall.

So far the submission of the learned counsel for the



petitioner is concerned, if the submission itself is accepted then the petitioner has got no case at all. Since the properties are not the subject matter of the suit for which the plaintiff is seeking the permission to make construction of boundary wall and for measurement or verification of the plot no.822 and 873, the learned counsel himself submitted that he is not claiming any right, title and interest in the plot no.822 and 873.

In my opinion, therefore, the petitioner is not an aggrieved person nor he is prejudiced by the order. It is admitted fact that the subject matter of the suit is plot no.872 only which is claimed by the defendant-petitioner. The court below recorded finding that on this plot the plaintiff has his house and the boundary wall has been fallen and only permission has been granted to repair. In the impugned order also, it appears that plot no.872 has been written and not 822.

Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction and accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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