

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.871 of 2017

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Ashim Kumar Mukherjee, Son of Amiabhushan Mukherjee, resident of Mohalla-
Kathalbari, P.O.- Lalbagh, P.S. LNMU, District- Darbhanga.

.... Defendant No.3-Petitioner

Versus

1. Fakira Sharma (Barhi), Son of Late Chhote Sharm, resident of Mohalla-
Laxmisagar-Gangwara Road, Naka No. 8, P.S. L.N.M.U, District- Darbhanga.

.... Plaintiff-Respondent No.1st Set

2. Perwez Ansari, Son of Late Mosin Ansari.

3. Afsana Khatoon, Wife of Late Shamim Ansari.

Both resident of Mohalla- Laxmisagar, Gangwara Road, Naka No. 8, P.S. LNMU,
District- Darbhanga.

.... Defendant 1st Party-Respondents 2nd Set

4. Dillip Kumar Mukherjee, Son of Amiabhushan Mukherjee.

5. Sapan Kumar Mukherjee, Son of Amiabhushan Mukherjee.

6. Tapan Kumar Mukherjee, Son of Amiabhushan Mukherjee.

All resident of Mohalla- Kathalbari, P.O.- Lalbagh, P.S. LNMU, District-
Darbhanga.

.... Defendant No. 4 to 6-Respondent 3rd Set

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Appearance :

For the Appellant/s : Mr. Shri Prakash Srivastava, Adv.
Mrs. Anu Priyadarshi, Adv.
Mr. Navi Anand, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER



Date: 06-09-2017

An order, dated 07.04.2017, passed by the learned Munsif-Ist, Darbhanga, in Title Suit No. 95 of 2017, whereby, a Pleader Commissioner has been appointed for local inspection of the land in question, is under challenge in the present application, filed under Article 227 of the Constitution of India.

2. The petitioner is defendant before the court below.

3. Learned counsel, appearing on behalf of the petitioner, has submitted that since the suit is for permanent injunction, there was no necessity for the plaintiff to file an application for appointment of Pleader Commissioner, nor it was proper for the court below to have ordered for appointment of Pleader Commissioner, in exercise of power under Order 39, Rule 7 of the Civil Procedure Code (*in short* 'CPC').

4. I do not find much substance in the submission made on behalf of the petitioner after having gone through the impugned order. The power to appoint Pleader Commissioner, under Order 39, Rule 7 of the CPC, is explicit. Such appointment can be made for inspection of the subject matter of the suit.

5. Learned counsel for the petitioner submits that there are abundant materials to suggest that the petitioner had been in possession over the suit property.



6. This submission aforesaid can be seen at the trial.

The appointment of Pleader Commissioner by the court below by impugned order, dated 07.04.2017, in my opinion, cannot be faulted with in the present facts and circumstances of the case.

7. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.09.17
Transmission Date	N/A

