

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1132 of 2017

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1. Subodh Chourasia, son of Late Ram Bilash Barai.
2. Ram Dular Barai, son of Late Ghuran Barai.
3. Jitan Barai, S/o Late Ghuran Barai.
4. Ramdeo Barai, S/o Late Jhari Barai.
5. Radha Barai, S/o Late Jhari Barai.
6. Ram Narain Barai, S/o Late Nirdhan Barai.
7. Ram Babu Barai, S/o Late Ram Sagar Barai.
8. Upendra Barai, S/o Late Ram Sagar Barai. All are residents of Village- Chilhai, Post Khidirchak, P.S. Teghra, District- Begusarai.

.... Petitioner/s

Versus

1. Sri Thakur Ram Jankiji Mahraj through its Sebait Sri Niwas Das @ Shambhu Das Chela of Ram Bhajan Das resident of Village- Rampur, P.S. Teghra, Post- Khidirchak, District- Begusarai.

---Defendants-Respondents 1st party

2. Bhabichhan Barai, S/o Late Nirdhan Barai, resident of Village- Chilhai, Post- Khidirchak, P.S. Teghra, District- Begusarai.
3. Renu Devi, D/o Late Ram Bilash Barai and W/o Ram Dhari Chaurasia, resident of Village- Matihani, P.S. Matihani, District- Begusarai.
4. Nirajala Devi, D/o Late Ram Bilash Barai and W/o Sikandar Chaurasia, resident of Village- Matihani, P.S. Matihani, District- Begusarai.
5. Anjani Devi, D/o Late Ram Bilash Barai and W/o Dharmvir Chaurasia, resident of Village- Chandaaur, P.S.- Bhagwanpur, District- Begusarai.

.... Plaintiffs-Respondents IIInd set

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Appearance :

For the Appellant/s : Mr. Chandra Mauli Chaurasia
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 12-12-2017

Heard both sides.

The petitioners filed this civil miscellaneous petition against the order dated 23.03.2017 passed by Munsif, Teghra in Title Suit No.85 of 1992.

The petitioners-plaintiffs filed the suit for declaration of right, title and possession over the suit land over Plot No.366. It



is stated that the Survey Plot No.365 was amalgamated with Plot No.366, 60 years ago during the lifetime of forefather of the plaintiff.

According to the case of the plaintiff, there is a house and trees over the disputed land but the defendants claimed that land is parti land. The petitioner filed petition for appointment of Pleader Commissioner to record about the physical features of the land but the learned Munsif rejected the petition holding that earlier at the instance of the plaintiff, Pleader Commissioner was appointed vide order dated 31.05.2011 and the same order was set aside by the High Court. This Court held that the Pleader Commissioner cannot be appointed to collect evidence on behalf of either the plaintiff or the defendant but this Court observed at the same time that if the Court feels inclined to get any evidence in order to impart justice, the Court can appoint Pleader Commissioner. The learned counsel for the petitioner submits that in view of the observation made by this Court in CWJC No.12225 of 2011, the plaintiff again filed petition for appointment of Pleader Commissioner in order to report about the physical features of Plot No.366 but the learned Munsif erroneously and illegally rejected the petition.

I find no merit in this case simply on the ground that



the petition of the petitioner for appointment of Pleader Commissioner was earlier allowed by order dated 31.05.2011 but the same order was set aside by the High Court in CWJC No.12225 of 2011. The situation does not change. The plaintiff again filed the petition for appointment of Pleader Commissioner to report about the physical features of the land, the suit property and the learned Munsif dismissed the petition for appointment of Pleader Commissioner. Thus, I do not find any jurisdictional error.

Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

Saurabh/-

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