

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17275 of 2013

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Brahamdeo Mahton son of Late Mishri Mahton, resident of village – Adawari, PS-Keshav Nagar, PS-Chautham, District-Khagaria.

.... Petitioner/s

Versus

Laxmi Mahton & Ors.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Chandra, Advocate

For the Respondent/s : Mr. V. Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-12-2017

This application has been filed by the defendants of Title Suit No. 19 of 2010 pending in the court of learned Munsif, Khagaria. The learned Court below as per impugned order dated 1st August 2013 refused to appoint the Advocate Commissioner for measurement of plot no. 398.

2. Heard both sides and perused the record.

3. The petitioner is full brother of respondent no. 1. He has filed the aforesaid suit for declaration of title over the suit land on the strength of registered sale deed. The plaintiff and contesting defendants had purchased the land of plot nos. 378, 471 and 472 by virtue of two separate registered sale deeds both dated 20th February 1991. The vendor of both the parties further sold land of plot no. 378 to different persons by virtue of 14 sale deeds. The total area of plot no. 398 is 1 bigha 19 katha and 9 dhur. In course of trial, after closing



the evidence of plaintiff, the defendants have examined 7 witnesses. At the fag end of trial they want to get an Advocate Commissioner appointed for measurement of plot no. 398. The plaintiff and defendants are purchasers from same persons. The plaintiff claims that he is coming in possession over the land since the date of purchase, i.e. 20.02.1991. The suit was filed after 19 years of purchase when the defendant allegedly started creating trouble in possession of the plaintiff. The learned Court below while rejecting the prayer of defendant has observed that since last several dates he is not adducing the evidence. The other purchasers of plot no. 398 are not party to the suit. In such circumstances, the learned Court has rightly refused to appoint the Advocate Commissioner.

4. In view of discussion made above, I find that the learned Court below has not committed any error in rejecting the prayer of the petitioner.

5. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.12.2017
Transmission Date	

