

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18023 of 2013

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Dharam Nath Singh & Anr

.... Petitioner/s

Versus

Chandradeo Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Narendra Kumar

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 18-09-2017 Heard learned counsel Mr. Narendra Kumar for the
petitioners.

2. This writ application has been filed under Article 227 of the Constitution of India against the order dated 04.03.2013 passed by the learned Munsif-IV, Chapra in Title Suit No.101 of 1983 whereby the learned court below rejected the objection petition filed by the petitioners to the Survey Knowing Pleader Commissioner.

3. From perusal of the impugned order, it appears that the learned Survey Knowing Pleader Commissioner was examined as witness in the case and thereafter this application has been filed for rejecting the report on the ground that according to the evidence of Pleader Commissioner, the report is incorrect and illegal, it cannot be relied upon. The learned court below by the impugned order held that the report cannot be said to be illegal.



4. The grievance of the petitioners is that if everything is on record, why illegal report should be kept on record because it is a case of encroachment and if the report is allowed to remain there, it will prejudice the petitioners.

5. As stated above, it appears that the court below perused the cross-examination of the Pleader Commissioner by the defendants-petitioners and came to the conclusion that he has not been able to bring any irregularity in the report, sketch map, field book and the plotted map and, therefore, the court below did not find any illegality in the report of the Pleader Commissioner.

6. The Hon'ble Supreme Court in the case of **Jai Singh & Others Vs. Municipal Corporation of Delhi and Others, (2010) 9 Supreme Court Cases 385** has held that the High Court cannot lightly or liberally act as an appellate court and re-appreciate the evidence. Generally, it cannot substitute its own conclusion for the conclusion reached by the courts below or the statutory/quasi-judicial tribunals. The power to re-appreciate the evidence would only be justified in rare and exceptional circumstances where grave injustice would be done unless the High Court interferes.

7. In view of the above settled proposition of law, in my opinion, in the present case, no case for interference in



exercise of supervisory jurisdiction is made out and thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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