

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.758 of 2017**

Syed Mehrul Hoda, son of Late Syed Ashraful Hoda, resident of Village+P.O.- Hussainabad, P.S.- Ariari, District- Sheikhpura.

... .. Appellant/s

Versus

1. The State of Bihar through the Collector, Sheikhpura.
2. The District Fisheries Officer-cum-Chief Executive Officer, Munger.
3. The District Fisheries Officer-cum-Executive Officer, Sheikhpura.
4. Sudhir Chouhan President, Fisheries Committee, Chewara, resident of Village- Barunibigha, P.O.- Chakandra, P.S.- Chewara, District- Sheikhpura.
5. Sunil Chouhan, Secretary, Fisheries Committee, Chewara, resident of Village- Chakandra, P.S.- Chewara, District- Sheikhpura.
6. Neyaz Ahmad, son of Late Shafi Ahmad, resident of Village & P.O.- Chewara, P.S.- Chewara, District- Sheikhpura.

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr. Jagannath Singh  
For the Respondent/s : Mr. Rishi Raj Sinha-SC19

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

2      18-10-2017      Heard learned Counsel for the petitioner.

The petitioner, in the present application, under Article 227 of the Constitution of India, is aggrieved by an order, dated 16.01.2017, passed by learned Sub Judge I, Sheikhpura, in Title Suit No. 29 of 2013, whereby he has rejected the application filed on behalf of the plaintiff of the said suit for appointment of receiver.

The plaintiff has not challenged the said order, dated 16.01.2017, who had applied before the Court below for appointment of a receiver. From the impugned order, I find that the Court below has succinctly taken note of the requirements of



law for exercising discretion under Order 41 Rule 1 of the Civil Procedure Code (hereinafter referred to as 'the Code') for appointment of a receiver.

Upon examination of record, the Court below has recorded that the suit involved intricate issues of right, title as well as possession and, therefore, it could not reach a *prima facie* conclusion that the plaintiff had excellent chance of succeeding in the suit, which is one of the requirement for exercise of discretion under Order 40 Rule 1 of the CPC. The Court below has commented upon the conduct of the plaintiff also in lingering the matter for one reason or the other.

In the circumstance as noted in the impugned order, rejection of the application, under Order 40 Rule 1 of the CPC, for appointment of a receiver cannot be said to be unjustified. Further, the petitioner-defendant, in my view, does not have a case to assail the said order, dated 16.01.2017, for appointment of a receiver.

This application has no merit and is, accordingly, dismissed.

**(Chakradhari Sharan Singh, J)**

Prabhakar Anand/-

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