

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.779 of 2018

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Harilal Prasad Chaudhary @ Harilal Yadav, son of Late Indar Prasad @ Indar Yadav, resident of Rampur Bhaisahi, P.O.- Maleya Khas, P.S.- Kuchaikote, District- Gopalganj.

.... Appellant/s

Versus

1. Fazal-Uf-Rehman, son of Ekram-Ul-Haque
2. Md. Rafique, mson of Ekram-Ul-Haque
3. Md. Mustafa, son of Nazam-Ul-Haque
4. Bibi Qmrul, daughter of Nazam-Ul-Haque
5. Bibi Sairul, daughter of Nazam-Ul-Haque
6. Bibi Mazroon, daughter of Nazam-Ul-Haque.
7. Md. Maqoonam, wife of Nazam-Ul-Haque.
8. Md. Rasool, Son of Late Ramzan Ali
9. Md. Hadeesh, Son of Late Ramzan Ali
10. Md. Idreesh son of Late Ramzan Ali
11. Noor Mohammad son of Late Ramzan Ali, all resident of Rampur Bhaisahi, P.O.- Maleya Khas, P.S.- Kuchaikote, District- Gopalganj.
12. Bigoo Chaudhary son of Late Jhakad Prasad
13. Yogendra Chaudhary son of late Jhakad Prasad
14. Lakshminia Devi daughter of Late Jhakad Prasad
15. Batsiya Devi wife of Late Jhakad Prasad
16. Ramjit Chaudhary son of Late Shankar Prasad
17. Tisiya Devi, wife of Late Shankar Prasad
18. Malti Devi, daughter of Late Shankar Prasad
19. Shanti Devi daughter of Late Shankar Prasad
20. Kanti Devi daughter of Late Shankar Prasad
21. Bedanti Devi, daughter of Late Shankar Prasad, all resident of Rampur Bhaisahi, P.O.- Maleya Khas, P.S.- Kuchaikote, District- Gopalganj.
22. Vishwanath Singh son of Late Jagdish Narayan Singh, resident of village + P.O.- Maleya Khas, P.S.- Kuchaikote, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 25-07-2018

Heard both sides.

The petitioner filed this Civil Misc. petition against the
order dated 05.04.2018 passed in Title Suit No.453 of 2006 by which



the petition of the petitioner for appointment of Pleader Commissioner for report on physical feature of the land has been dismissed.

Learned counsel for the petitioner submits that the petitioner is the Defendant No.12 and filed petition that the plaintiff has stated in his plaint as well as in the evidence of P.W.1 that the disputed land is in his possession. The plaintiff is cultivating the lands but it has come in the evidence that the land is lying vacant and therefore it is necessary that the Pleader Commissioner be appointed to report about the physical feature of the land but it appears that the suit is pending for the evidence of the plaintiff and it is the choice of the plaintiff to examine witnesses of his own choice to prove his own case. At this stage, the petition of the defendant to examine any witness or appoint Pleader Commissioner to report about the physical feature of the land can not be allowed and this I find that the learned court below rightly rejected the petition of the petitioner – defendant.

Accordingly, I do not find any error or illegality in the order and this Civil Misc. petition is dismissed.

(Prabhat Kumar Jha, J)

N.H./- Saurabh

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-08-2018
Transmission Date	

