

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16260 of 2014

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Nayan Singh Son of Late Ram Rekha Singh, resident of village - Pokhrera, P.O. Sonbarsa, P.S. Pachrukhi, District – Siwan.

.... Petitioner/s

Versus

1. Ram Pujan Singh Son of Late Rajeshwar Singh
 2. Raj Kumar Singh Son of Ram Pujan Singh
- Both are resident of village - Pokhera, P.S. Pachrukhi, District - Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 16-04-2018

The defendant of Title Suit No. 47 of 2009 pending in the court of Munsif-I, Siwan has filed this application for setting aside the order dated 06.06.2014 whereby and whereunder the learned Munsif confirmed the report of Survey Knowing Pleader Commissioner.

2. Heard learned counsel for the petitioner and the respondents.

3. It appears that on the petition of plaintiff, one Mr. Pawan Kumar Shrivastava was appointed as Survey Knowing Pleader Commissioner on 11.02.2011 to inspect the suit land and submit report. The Survey Knowing Pleader Commissioner held inspection and submitted report. This petitioner-defendant filed objection against the report of Survey Knowing Pleader Commissioner. The Survey



Knowing Pleader Commissioner was examined and cross-examined and as per impugned order, his report was confirmed. From perusal of annexure-1 to this application it appears that Mr. Pawan Kumar Srivastava and some others Survey Knowing Pleader Commissioner were not found eligible having valid certificate and so their names were deleted from the panel of Survey Knowing Pleader Commissioner by the District Judge, Saran vide Order no. 15A/2011 dated 31.01.2011. The Advocate Commissioner in the case in hand was appointed as Survey Knowing Pleader Commissioner subsequent to deleting of his name from the panel. It further appears that objection of the petitioner was neither considered nor the petitioner was heard by court below before accepting the report of Advocate Commissioner. The learned counsel for the respondents does not dispute this fact that Mr. Pawan Kumar Srivastava was deleted from the panel of Survey Knowing Pleader Commissioner.

4. In view of above facts, the impugned order dated 06.06.2014 accepting the report of Survey Knowing Pleader Commissioner is not sustainable in view of the fact that he was not found fit to be appointed as Survey Knowing Pleader Commissioner by the District Judge, Saran and so the impugned order is set aside and the matter is remitted to the court below to pass order afresh after hearing the petitioner.



5. This application is accordingly allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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