

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1314 of 2016

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Shobha Devi W/o Sri Upendra Kumar Singh resident of village - Jallapur, P.O.
Bela, P.S. Dariyapur, District Saran. Petitioner

Versus

1. Rita Devi W/o Nand Kishore Sah resident of village Banwaripur, P.O. Jaitipur (Dariyapur) P.S. Dariyapur, District Saran.
 2. Sri Bhagwan Singh son of Late Desi Singh resident of village - Sikti, P.O. Anjani (Parsa) P.S. Parsa at present residing of Village - Bela (Tola Mushari) P.O. - Arvind Nagar (Dariyapur Nagar), P.S. Dariyapur District Saran.
 3. Rameshwar Singh
 4. Sikandar Singh both sons of Late Devnath Singh
 5. Gayatri Devi W/o Satyendra Singh, D/o Late Shiv Nath Singh All residents of village - Bela, Tola, Mushari, P.O. Arvind Nagar (Dariyapur) P.S. Dariyapur, District - Saran. Respondents
- =====

Appearance :

For the Appellant/s : Mr. Aditya Narayan Singh-1
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date: 25-04-2018

Heard both sides.

The petitioner filed this Civil Miscellaneous petition against the order dated 29.08.2016 passed in T.S. No.408 of 2011 by the learned Sub-Judge-II, Saran at Chapra, by which on the prayer of defendants/respondents, Pleader Commissioner was appointed for measurement of the land and gave report about the status of the land.

Learned counsel for the petitioner submits that the plaintiff filed the suit for declaration of title and confirmation of the possession of 1 katha and 10 dhur land of plot no.6022 of khata no.128 by virtue of sale deed executed by Deonath Singh with regard to 1 katha of land. The petitioner further seeks relief that the sale deed executed by the defendant no.2 in favour of defendant no.1 is illegal and not binding upon the plaintiff but on the prayer of the defendants, the



Pleader Commissioner was appointed to report about the physical feature of the suit property. The physical feature of the suit property is not in question in the suit.

The learned counsel for the petitioner submits that the plaintiff purchased 1 katha of land of plot no.6022 but claims title over 1 katha and 10 dhur of land and also sought relief for declaration of sale deed executed by the defendant no.2 in favour of defendant no.1 not binding upon the plaintiff.

Having considered the submissions made on behalf of both the parties, I find that in view of the prayer made by the plaintiff, that he sought declaration of right title over the land by virtue of sale deed executed by Deonath Singh in his favour and, for that, report with regard to physical feature of the land is not at all required. Therefore, I find that the learned Sub-Judge-II, Saran at Chapra has committed jurisdictional error in appointing the Pleader Commissioner for measurement of the land.

Accordingly, the order dated 29.08.2016 passed in T.S. No.408/2011 is set aside and this Civil Miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2018
Transmission Date	NA

