

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21953 of 2014

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Binay Pathak S/o Late Suresh Pathak, resident of village: Singhi, Post-
Chakedihara, P.S. -Belaon, Dist- Kaimur (Bhabhua). Petitioner/s
Versus

Rameshwar Pathak s/o Late Darbari Pathak alias Lalita, resident of village: Singhi,
Post- Chakedihara, P.S. - Belaon, Dist- Kaimur (Bhabhua). Respondent/s

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Appearance :

For the Petitioner/s : Mr. Maheshwar Prasad, Adv.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 02-11-2018

Petitioner before this Court is defendant in Title Suit No.118 of 2013 pending in court of Munsif, Kaimur (Bhabhua). He has filed this application for quashing the order dated 15.09.2014 whereby and whereunder the learned court below on the prayer of plaintiff appointed a Survey Knowing Pleader Commissioner for submitting report.

2. Heard learned counsel for the petitioner.

3. The sole respondent filed the aforesaid suit for declaration of his right and title over the land mentioned in schedule-I of the plaint and also prayed to remove encroachment made by the defendant. According to plaintiff, he has his land under Chak No. 22, 23 and 30. Out of which, plot no. 30 was acquired by him as per registered sale deed. The defendant has his land under chak no. 31 and he encroached the land of the plaintiff under chak no. 33 and



constructed some structure.

3. The learned court below considering the case of encroachment, appointment a Survey Knowing Pleader Commissioner. The trial court has submitted a report under letter no. 421 dated 13.07.2018 from perusal of which it appears that the Advocate Commissioner has already submitted report and the case is pending for evidence of Survey Knowing Pleader Commissioner. On account of submission of report of Advocate Commissioner, this application has become infructuous. The authenticity and admissibility of the report of Pleader Commissioner has to be considered by the court below at the time of trial. The court below has, thus, committed no jurisdictional error in appointing the Survey Knowing Pleader Commissioner.

4. In view of above facts, I do not find any merit in this writ application and is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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