

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1446 of 2017

=====

1. Rajeev Kumar @ Shivji,
2. Prashant Kumar,
3. Rajesh Kumar,
4. Devanand Kumar, All sons of Late Raghunandan Prasad, Residents of Mohallah- Mahatama Gandhi Nagar, Bazar Samiti Road, Post Office- Gajadharganj, Police Station- Buxar (M), District- Buxar.

.... Appellant/s

Versus

1. Sarju Prasad Singh, Son of Late Ram Sakal Rai,
2. Banarsi Prasad Singh, Son of Late Jagdip Singh.
3. Vishundari Singh, Son of Sitaram Singh, All are residents of Mohallah- Mahatama Gandhi Nagar, Bazar Samiti Road, Post Office- Gajadharganj, Police Station- Buxar (M), District- Buxar.
4. Om Prakash,
5. Vishunji, Both are sons of Late Rameshwar Prasad, Residents of Mohallah- Mahatama Gandhi Nagar, Bazar Samiti Road, Post Office- Gajadharganj, Police Station- Buxar (M), District- Buxar.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Parijat Saurav
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 24-07-2018 Heard learned counsel for the petitioners.

The Petitioners have filed this petition against the order dated 08.05.2017 passed in Title Suit No. 611 of 2013 by which the petition of the petitioners for appointment of Pleader Commissioner has been rejected.

The petitioners are defendants in the Court below. The plaintiff filed the suit for declaration of title over 11 decimals of land of plot no. 472. The defendants filed written statement



stating that 7 ½ decimals of land of the defendants were encroached by the plaintiff in plot no. 472. During the pendency of the suit the defendants filed a petition for appointment of Pleader Commissioner to measure the land of plot no. 472 and by the impugned order the petition of the defendants/petitioners has been rejected.

The learned counsel for the petitioners submits that petition of the petitioners has illegally been rejected and the Pleader Commissioner should be appointed to measure the land bearing plot no. 472 which belongs to the defendants since the plaintiff has encroached upon the land.

The submission of the learned counsel for the petitioners is not at all acceptable. Admittedly, the plaintiff has also filed Title Suit no. 213 of 2014 seeking relief that the plaintiff of the present suit has encroached 7 ½ decimals of land of his plot no. 473 and others and amalgamated the same in plot no. 472. In the aforesaid Title Suit No. 213 of 2014, on the petition of the petitioners, Pleader Commissioner was appointed on 30.10.2015 but the petitioners again filed a petition for appointment of Pleader Commissioner in present suit where the plaintiff sought declaration of title over plot no. 472 measuring 11 decimals.

I find that appointment of Pleader Commissioner in



the present suit is unnecessary and uncalled for. The learned Sub Judge has rightly dismissed the petition of the petitioners.

Accordingly, I do not find any merit in this Civil Misc. petition and the same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

BKS/Rajan

U			
---	--	--	--

