

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6614 of 2011

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The State of Bihar through the Collector, District – Munger.

.... Petitioner

Versus

1. A.N.Kaushik @ Niraj Kumar Kaushik, S/O Mr. Arjun Thakur, R/O Gumti No. 2, Moghal Bazar, at present Dalhatta Bazar, P.O. - Basudeopur, P.S. Kotwali, District – Munger.
2. Archana Jha W/O Sri Niraj Kumar Kaushik, R/O Gumti No. 2, Moghal Bazar, at present Dalhatta Bazar, P.O. - Basudeopur, P.S. Kotwali, District – Munger.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Dubey, AC to AAG-11
For the Respondent/s : Mr. Kumar Kamal Nayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-07-2018

Petitioner is defendant of Title Suit No.02 of 2009 pending in the court of Munsif I, Munger. He has filed this writ application for quashing the order dated 03.05.2010 passed by the court below whereby and whereunder the petition filed by the plaintiffs-respondents to appoint survey knowing Pleader Commissioner was allowed to measure the land.

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

3. It appears that in pursuance of impugned order the Pleader Commissioner visited at the spot and after making inspection submitted his report. The said Pleader Commissioner in course of trial has been examined as P.W.5 and his report has been marked as



exhibit. The said Pleader Commissioner has been cross-examined by the petitioner before the court below. The main grievance of the petitioner is that the plaintiffs have filed the petition and got the report submitted only for the purpose of collecting evidence which is not permissible in law. The plaintiffs have filed the suit for declaration of their title over Gairmajarua land. By appointment of Pleader Commissioner the plaintiffs have brought physical feature of the suit land. On account of submission of report, this application has become infructuous. The evidentiary value and admissibility of said report of Pleader Commissioner has to be considered at the time of disposal of the suit and so in this view of the matter the petitioner is not prejudiced in any way.

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

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
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