

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1952 of 2017

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1. Rameshwar Sah, Son of Late Vishwanath Sah, Resident of Village-Bisunpur Saraiya, P.S.- Paroo, District- Muzaffarpur.

.... Petitioner/s

Versus

1. Parmeshwar Sah, Son of Late Vishwanath Sah, Resident of Village-Dewariya (West), P.S.- Paroo/Dewariya, P.O.- Dewariya, District-Muzaffarpur.
2. Laxmi Devi, Wife of Late Ram Naraian Sah,
3. Gopal Sah, Son of Late Ram Naraian Sah,
4. Ghanshyam Sah, Son of Late Ram Naraian Sah,
5. Reena Devi, Daughter of Late Ram Naraian Sah, All residents of Village-Dewariya (West), P.S.- Paroo/Dewariya, P.O.- Dewariya, District-Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sriram Krishna

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 29-10-2018 Heard learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition against the part of order dated 17.08.2017 passed by Sub Judge XIV, Muzaffarpur in Partition Suit No.38 of 2011 by which the Court appointed a Pleader Commissioner to report about the physical features of the land on the petition filed by defendant Nos.2 to 5 for grant of injunction restraining the plaintiff from interfering into the peaceful possession of the defendants.

Learned counsel for the petitioner submits that the plaintiff also claimed possession over the land. By way of report



by the Pleader Commissioner, defendants want to collect evidence but I do not find any force in the submission of the learned counsel for the petitioner as on perusal of the order impugned, it appears that learned Sub Judge found that in order to verify physical features of the land, the appointment of Pleader Commissioner is required. At the same time, learned Sub Judge held that Pleader Commissioner cannot be appointed for the sake of collecting evidence, therefore, Pleader Commissioner was appointed only to report about the physical features of the disputed land on which both sides claimed their exclusive possession.

Taking into consideration the facts aforesaid, I do not find any jurisdictional error in the order impugned. Accordingly, this civil miscellaneous petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

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