

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.350 of 2018**

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Shambhu Nath Jha S/o Late Kallu Jha, R/o Villaga- Sadanandpur, P.S.- Ballia,
District- Begusarai.

... .. Petitioner/s

Versus

Kaushal Kishore Singh S/o Late Rajendra Prasad Singh, R/o Village-
Sadanandpur, P.S.- Ballia, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sharma, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 20-07-2022 Heard Mr. Arvind Kumar Sharma, learned counsel
for the petitioner.

The petitioner is a defendant in a suit filed by the
plaintiff for declaration of title and recovery of possession.

Learned counsel for the petitioner submits that
before finalisation of issue, the Survey Knowing Pleader
Commissioner was appointed and learned Pleader
Commissioner submitted her report in 2015 which was objected
by the petitioner and in pursuance thereto the petitioner on
21.11.2015 filed an objection petition. The petitioner also cross-
examined Survey Knowing Pleader Commissioner on the basis
of objection which has been annexed as Annexure-6/1 to this
application.

The contention of the petitioner was that the Survey



Knowing Pleader Commissioner has not applied his mind and the report submitted by her did not consider the arithmetical, geometrical and trigonometrical calculations and surveyed on the wrong map. It has further been submitted by learned counsel for the petitioner that the petitioner is the purchaser of 6 *Katthas*, 8 *Dhoor* and 18 *Dhurki* of the land and the Respondent/Plaintiff has filed the suit for declaration of the title upon 2 *Katthas* of land. He next submits that the Survey Knowing Pleader Commissioner exceeded the terms of reference/writ and has submitted her report and, thereafter, the petitioner has encroached upon the some portion of two *katthas* of land without disclosing the area and other details of the encroachment allegedly done by the petitioner.

Learned counsel for the petitioner vehemently argues that the petitioner has not encroached upon any portion of the land over and above the land purchased by him by way of the registered sale deed having the specific boundaries mentioned therein. Lastly, he submits that this matter may be disposed of with liberty to the petitioner to raise all the points at the time of final argument of the suit.

In view of the aforesaid submission, the impugned



order dated 05.01.2018 passed by the learned Sub Judge, Balia, in Title Suit No. 60 of 2013, is not required to be interfered with and it goes without saying that the petitioner may raise all his points at the stage of final argument of the case.

Accordingly, this application stands disposed of.

(Anil Kumar Sinha, J)

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