

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.799 of 2018

Kapil Deo Ram Son of late Shivnandan Bind Resident of Vill- Bhirgawa, P.O. Odar, P.S. Kudar District- Kaimur.

... .. Petitioner/s

Versus

1. Tunnu Bind Son of late Khobhari Bind Resident of Vill- Dulhi Tola Baheriya, P.O. Chand, Distt. Kaimur.
2. Sukhi Devi wife of Kapil Deo Ram Resident of Vill- Bhirgawa, P.O.Odar, District- Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s :	Mr.Ashok Kumar Pandey
For the Respondent No.1:	Mr. Saroj Kumar Sharma, Adv. Ms. Kiran Kumari Sharma, Adv.
For the Respondent No.2:	Mr. Ravi Shankar Mr. Chandra Mohan Jha, Adv. Mr. Randhir Kumar No. I, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 18-10-2022 Heard the parties.

The present application has been filed against the order dated 16.04.2018 passed by Sub Judge 1st Class, Kaimur at Bhabhua in Title Suit No. 540 of 2014 / 818 of 2014 by which the application filed by the petitioner under Order 26 Rule 9 of the C.P.C. for appointment of Pleader Commissioner has been rejected.

Learned counsel for the petitioner submits that the land mentioned in schedule- 1 of the plaint measuring 9 decimal was purchased by the petitioner from one Ganga Chaudhary through registered sale deed in the name of his wife- Sukhi Devi



(respondent no. 2) and he constructed a house on the plot. On 20.10.2014 the respondent no. 1 came with some person and asked to vacate the house in question because the same has been purchased by him on 02.08.2014 from the respondent no. 2. Accordingly, the petitioner -plaintiff filed a title suit for declaration that the sale deed dated 02.08.2014 executed in favour of the respondent no. 1 is invalid, inoperative and not binding upon the plaintiff. He further submits that since the plaintiff has constructed a house upon the land in question after purchase of the same in the name of his wife on 20.10.2014, accordingly, he filed a petition for local inspection to ascertain the fact regarding the construction of house by the petitioner on the subject land.

The learned trial court while considering the petition for appointment of Pleader Commissioner has come to the finding that the only relief which has been prayed in the title suit is for declaring the sale deed as null and void and as such, the point as to whether any house is situated upon the land in question is immaterial. The court has also noted that the argument of both the parties have come to an end and at this stage appointment of Pleader Commissioner for ascertaining the existence of the house is not necessary.



In view of the relief claimed in the plaint and the findings arrived at by the trial court and the fact that argument of both the parties have been concluded, as such, I am not inclined to interfere with the impugned order.

The petition stands rejected.

(Anil Kumar Sinha, J)

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