

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.305 of 2021**

1. Sri Sunil Kumar Son of late Ram nandan Roy resident of Naya Tola, Roy colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.
2. Monu Kumar Son of Sri Sunil Kumar resident of Naya Tola, Roy colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.
3. Sonu Kumar Son of Sri Sunil Kumar resident of Naya Tola, Roy colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.

... .. Petitioner/s

Versus

1. Sri Kamlesh Kumar Roy Son of Late Baijnath Roy resident of Naya Tola, roy Colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.
2. Sri Bimlesh Kumar Roy Son of Late Baijnath Roy resident of Naya Tola, roy Colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.
3. Sri Bimlesh Kumar Roy Son of Late Baijnath Roy resident of Naya Tola, roy Colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.
4. Sri Deepak Kumar Son of Late Dinesh Kumar Roy resident of Naya Tola, roy Colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.
5. Smt. Sudha Devi wife of Sri Sunil Kumar resident of Naya Tola, roy Colony, Phulwari Sharif, P.S. - Phulwari Sharif, Town and District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rikesh Sinha, Advocate
For the Respondent/s : Mr. Pankaj Maijorwar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL ORDER

4 29-06-2022 Heard learned counsel for the respective parties.

In the instant petition, petitioners have prayed for the
following reliefs:-

*“(i) For issuance of writ in
the nature of certiorari for setting
aside the order dated 05.04.2021
passed by the learned Sub Judge IX,
Patna in Title Suit No. 189/2020*



whereby and whereunder the learned court has order on the petition dated 01.03.2021 filed by the plaintiffs under order XXVI Rule 9 of Code of Civil Procedure and order or appoint Advocate Commissioner to know the actual position of disputed land and width and length of rasta between both party which is North of Main road to South and construction made on both side of rasta and physical position of plot no. 506 and after receiving report writ, produce in court within 15 days.

(ii) For appointing Advocate Commissioner to make scientific to Memorandum of partition to meet the ends of justice.

(iii) For measuring the suit land of parties bearing Plot No. 505 and 506 allotted in Memorandum of partition and to make spot verification of entire suit property by the learned advocate commissioner.

(iv) For measuring the suit land encroached by the plaintiffs/respondents in plot no. 505.

(v) For any other writ/writs for which petitioner deemed entitled to.”

Perusals of the records it is evident that petitioner has not made out a case so as to interfere with the order dated 05.04.2021 passed by the Sub Judge IX Patna, in Title Suit No. 189 of 2020 for appointing Advocate Commissioner for the purpose of ascertaining factual information by means of report.



It is learnt that the report is already presented and it is to be accepted by the jurisdictional Court. Accordingly, the present petition stands dismissed reserving liberty to petitioner to file objections, if any, in respect of filing of Advocate Commissioner's report with reference to material information, if any. If such objection is filed the court below is hereby directed to examine the petitioner's objection and proceed further in accordance with law.

(P. B. Bajanthri, J)

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