

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.54 of 2018

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Ram Singhashan Singh S/o Late Sahabali Singh, R/o Vill- Srighoria, Pargana-
Mahaura, P.S.- Obra, Distt- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Aurangabad.
3. The Anchal Adhikari, Daudnagar, Aurangabad.
4. Smt. Ramshila Devi, W/o Sri Jai Prakash Narayan Verma, Resident of Moua
Kanpa, Post- Dayedbad, P.S.- Kanpa Bikram, Distt- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Sr. Advocate Mr. Praveen Prakash, Advocate.
For the State	:	Mr.R.K. Roy- GP-18
For the Opposite Party No.4:		Mr. Jitendra Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

10 15-11-2022 Heard Mr. Surendra Kumar Singh, learned senior

counsel for the petitioner, Mr. R.K. Roy, GP-18 for the State and

Mr. Jitendra Kumar Singh, learned counsel for the Opposite

Party No. 4.

The petitioner is aggrieved by the order dated
25.11.2017 passed by the learned Sub-Judge 1st, Civil Court,
Aurangabad, in Execution Case No. 4 of 1996 by which the
objection to the Pleader Commissioner's report has been
rejected by the learned Executing Court.

The fact of the case in brief is that the
plaintiff/respondent filed a suit bearing Title Suit No.170 of



1992 for declaration of title and confirmation of possession upon 4 decimal of suit land situated in Plot No. 377. According to the plaintiff/respondent, the plaintiff purchased the land from its rightful owner in the year 1990. The defendant No. 3 who is the petitioner before this Court also purchased 4 decimal of suit land situated at Plot No. 377 from the vendor of defendant No. 1 from the north side. A decree and judgment has admittedly been passed by the learned Trial Court on 23.12.1995 by which the learned Trial Court allowed and decreed the suit in favour of the plaintiff/respondent to the extent of 4 decimal of land in Plot No. 377 as claimed by the plaintiff and also passed a decree that defendant No. 3 will be entitled for 4 decimal of land purchased by defendant No. 3 from defendant No. 1 from the North side. An execution petition was filed by the plaintiff for execution of the decree in the year 1996 bearing Execution Case No. 4 of 1996. The dispute with regard to execution of decree arose in the year 1997 and the petitioner approached this Court claiming therein that Survey Knowing Pleader Commissioner be appointed in order to identify and carve out the land purchased by the petitioner/defendant No. 3 to the extent of 4 decimal from the North side of Plot No. 377. The prayer of the petitioner was allowed by this Court vide order dated 1.10.1997 (Annexure-3)



and the learned court below was directed to appoint a Survey Knowing Pleader Commissioner for measurement of Plot No. 377 and demarcation of 4 decimal of land purchased by defendant No. 3/petitioner with further direction that remaining 4 decimal, or whatever remains, the Plot after demarcation would be deemed to be the land of the plaintiff/respondent with which the defendant No. 3 will have no connection as per the decree. In pursuance of the aforesaid order passed by this Court, the learned Executing Court appointed a Survey Knowing Pleader Commissioner who went for measurement of the land.

From perusal of the impugned order, it transpires that the petitioner created hindrance during measurement of land by the Pleader Commissioner so appointed in pursuance to the order passed by this Court, which gave rise to another civil revision Case bearing No. 138 of 2001 in which this Court vide order dated 27.09.2001 directed for appointment of Police Force and Magistrate to enable the Pleader Commissioner to measure the land as per the direction of this Court as well as the decree passed by the learned Trial Court. It further appears that in the year 2002, the Police Force and Magistrate were appointed but the Circle Officer, Daudnagar, refused to visit the disputed land, due to which, the measurement could not take place. The



learned Executing Court took serious note of the same and directed the Sub Divisional Officer and Block Development Officer Daudnagar to get the land measured in any circumstances and only, thereafter, the Survey Knowing Pleader Commissioner could measure the land and submitted his measurement report on 20.9.2017. From the report it transpires that 4 decimal of land from the North side has been found to be the land purchased by the defendant No. 3/petitioner from North side and the remaining land to the extent of 3 decimals has been found to be the land purchased by the plaintiff/decree-holder.

From the impugned order it transpires that the delivery of possession has also been given to the decree-holder as well as defendant No. 3 on the basis of measurement and the executing court has arrived at the finding after taking into consideration the objection filed by the petitioner that there is no discrepancy and irregularity/illegality in the report of the Pleader Commissioner and the Pleader Commissioner has done the measurement properly. It further transpires from the impugned order that writ for the delivery of possession issued by the learned executing court has been discharged and both the decree-holder/plaintiff as well as defendant No. 3/petitioner have been given possession over their respective purchased



land. Though plaintiff/respondent has got the decree of 4 decimal of land but after measurement and carving out the purchase made by defendant No.3/petitioner to the extent of 4 decimal, only 3 decimal of land remained which has been handed over to the plaintiff in satisfaction of the decree.

In view of the aforesaid facts and circumstance and the fact that the decree has already been executed and the respective lands purchased by the plaintiff as well as defendant 3/petitioner have already been handed over in execution of the decree, I do not find any merit in this petition.

Accordingly, the impugned order does not require any interference by this Court and this application stands dismissed.

(Anil Kumar Sinha, J)

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