

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.561 of 2017

1. Mithilesh Singh
2. Umesh Prasad Singh, Both sons of Late Sitaram Singh, Resident of Village- Basdiha Kalan, P.O. and P.S. Pesar, District- Aurangabad.

... .. Petitioner/s

Versus

1. Chaudhary Kamlesh Singh
2. Bimlesh Singh, Both sons of Late Chaudhary Binod Singh, Resident of Village- Basdiha Kalan, P.O. and P.S.- Pesar, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

2 25-02-2023 Heard learned counsel for the petitioner.

This Civil Misc. application has been filed for setting aside the order dated 10.02.2017 passed by Sub Judge III, Aurangabad in Execution Case No. 2 of 1991 and also for cancellation of Pleader Commissioner's report dated 30.01.2017.

Learned counsel for the petitioner submits that from perusal of the Judgment, it appears that the Pleader Commissioner has not given correct report against which he had filed the objection petition before the Court concerned. He has further submitted that the learned Advocate Commissioner has not stated the real status and physical feature of the suit land and



the learned Court below has not applied his judicial mind and passed the impugned order which is not sustainable in the eye of law and liable to be rejected.

Having heard learned counsel for the petitioner and perused the material available on record including the impugned order, it appears that the plaintiff had filed the Title Suit No.94 of 1975 which was decided on 04.09.1986 and decree was prepared on 25.09.1986, it was ordered by the Court that the defendants shall not interfere in the land of the plaintiff and shall close his door towards the sahan of the plaintiffs/petitioners. Thereafter, the execution petition bearing Execution Case No.2 of 1991 was filed and time to time Advocate Commissioners were appointed for execution of the said decree and due to one reason or another, the same had been not completed. It also appears that the judgment debtor has given affidavit in the Court below that he has already complied the direction given in the decree and the judgment holder has already constructed the house on his land and also the door has been closed by the judgment-debtor as per the direction in decree. The learned Court below for verification of the same appointed Survey Knowing Pleader Commissioner who gave his report against which the petitioner filed objection. The learned



Court below after going through the report of the Survey Knowing Pleader Commissioner fully satisfied with the said report that the decree has been fully complied with and accordingly, close the execution proceeding vide the impugned order dated 10.02.2017.

Considering the facts and circumstances of the case and conduct of the parties, I found that the impugned order is a reasoned order and there is no illegality and no interference is required by this Court in supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly, this Civil Misc. Application is dismissed.

(Sunil Dutta Mishra, J)

sanjeev/-

U			
---	--	--	--

