

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.486 of 2017

1. Brahmdeo Mandal @ Singh Son of Late Chedi Mandal @ Singh Resident of Village- Bania, Police Station Rangra Chowk, District Bhagalpur.
2. Biranchi Prasad Singh, Son of Late Ram Mandal Resident of Village- Bania, Police Station Rangra Chowk, District Bhagalpur.

... .. Petitioner/s

Versus

1. Muneshwar Mandal @ Singh Son of Sahbir Mandal @ Singh Resident of Village- Bania, Police Station Rangra Chowk, District Bhagalpur.
- 2.1. Ganesh Mandal S/o Late Shyam Lal Mandal R/o Village- Baniya, Post- Bhawanipur, P.S.- Rangra Chowk (Gopalpur), Distt.- Bhagalpur, Presently residing at Village- Belapenu, Post Office- Mozampatti, Police Station- Barhara Kothi, District- Purnia.
- 2.2. Sanjo Devi W/o Yogi Mandal and D/o Late Shyam Lal Mandal R/o Village- Baniya, Post- Bhawanipur, P.S.- Rangra Chowk (Gopalpur), Distt.- Bhagalpur, residing at Village- Karikosi Bandh, Post Office and Police Station- Manihari, District- Katihar.
- 2.3. Chuna Devi W/o Dilip Mandal and D/o Late Shyam Lal Mandal R/o Village- Baniya, Post- Bhawanipur, P.S.- Rangra Chowk (Gopalpur), Distt.- Bhagalpur, at Village- Mariya, Post Office and Police Station- Azam Nagar, District- Katihar.
- 2.4. Uma Devi W/o Laxman Mandal and D/o Late Shyam Lal Mandal R/o Village- Baniya, Post- Bhawanipur, P.S.- Rangra Chowk (Gopalpur), Distt.- Bhagalpur, at Village- Kabilpur, Post Office- Mahadeopur, Police Station- Pranpur, District- Katihar.
3. Lukhri Devi, Wife of Late Chedi Mandal Resident of Village- Bania, Police Station Rangra Chowk, District Bhagalpur, Presently residing in Village Rani Diyara P.S. Ekchari, District Bhagalpur.
4. Urmila Devi, Daughter of Late Chedi Mandal, Presently Residing in Village- Tapuwa, P.S. Ekchari, District Bhagalpur.
5. Sahodari Devi, Daughter of Late Chedi Mandal, Presently residing in Village- Tapuwa, P.S. Ekchari, District Bhagalpur.
6. Hahiya Devi, Daughter of Chedi Mandal, Presently Residing in Village Khabashpur, P.S. Ekchari, District Bhagalpur.

.. ... Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

17 31-08-2023

Heard learned counsel for the parties.



The petitioners being the plaintiffs in T.S. No. 91 of 2010, pending in the court of Sub-Judge III, Naugachia filed an application for appointment of Pleader Commissioner and the same has been allowed.

It has been submitted by the learned counsel for the petitioners-defendants in the Court below that the Suit has been filed for declaration of Right, Title and Interest and for the declaration that the sale deed executed by Musmat Surfi Devi in favour of defendant no.6 as well as the record of rights prepared in the name of the purchaser is not binding on the plaintiffs. It has been further submitted by the learned counsel for the petitioners-defendants that neither the location nor the area of the Suit land is in dispute and the impugned order by which, the Pleader Commissioner has been directed to be appointed is perverse and illegal as there is no requirement for measurement of the Suit land in question. It has been further submitted by the learned counsel for the petitioners-defendants that the Pleader Commissioner has been appointed only to collect evidence, which is not permissible in law.

Sri Vivekanand Singh, learned counsel for the respondents has opposed the application and has submitted that no prejudice will be caused to the petitioner, if the impugned



order remains and the Pleader Commissioner visit the land in dispute.

I am of the opinion that there was no requirement in the facts of the Title Suit for appointment of any Pleader Commissioner.

In these circumstances, this application is allowed and the order dated 04.02.2017 in T.S. No. 91 of 2010, pending in the court of learned Sub-Judge III, Naugachia, is hereby quashed in the interest of justice.

As the Suit is of the year 2010, the concerned Sub-Judge who is hearing the Title Suit shall dispose of the same expeditiously and preferably within a year of communication of this order without giving unnecessary adjournment to either of the parties and he will proceed *ex parte* against the non-cooperating party.

Let a copy of this order be communicated to the Sub-Judge, concerned through FAX or e-mail forthwith.

(Sandeep Kumar, J)

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