

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.227 of 2023

Vikas Kumar Son of Late Lakshmi Narayan Raut Resident of J.P. Colony,
Ward No. 14 (New) P.O. and P.S.- Madhubani, Distt.- Madhubani.

... .. Petitioner/s

Versus

1. Tej Narayan Singh @ Yash Raj Singh Son of Late Yugeshwar Singh Resident of J.P. Colony, Ward No. 14 (New) P.O., P.S. and Distt.- Madhubani, at present Sundar Chawk, Chakdah, P.O. and P.S. and Distt.- Madhubani.
2. Mod Narayan Singh, Son of Late Yugeshwar Singh Resident of J.P. Colony, Ward No. 14 (New) P.O., P.S. and Distt.- Madhubani, at present Sundar Chawk, Chakdah, P.O. and P.S. and Distt.- Madhubani.
3. Dhruv Prasad Nayak, S/o Late Satya Narayan Nayak Resident of Village-Bhagwatipur, Via- Rampatti, S.B.I. Building, P.O.- Bhagwatipur, P.S. and Distt.- Madhubani.
4. Sanjay Kumar Nayak, Son of Dhruv Prasad Nayak Resident of Village-Bhagwatipur, Via- Rampatti, S.B.I. Building, P.O.- Bhagwatipur, P.S. and Distt.- Madhubani.
5. Rajeev Kumar Nayak, Son of Dhruv Prasad Nayak Resident of Village-Bhagwatipur, Via- Rampatti, S.B.I. Building, P.O.- Bhagwatipur, P.S. and Distt.- Madhubani.
6. Ravindra Kumar Nayak, Son of Dhruv Prasad Nayak Resident of Village-Bhagwatipur, Via- Rampatti, S.B.I. Building, P.O.- Bhagwatipur, P.S. and Distt.- Madhubani.
7. Rita Devi, Wife of Late Dev Narayan Raut Resident of J.P. Colony, Ward No. 14 (New), P.O. and P.S. and Distt.- Madhubani.
8. Jitendra Prasad Yadav, Son of Sri Narayan Yadav Resident of Village-Datuar, P.S.- Khasauli, Distt.- Madhubani, at present J.P. Colony, Ward No.- 14, P.O., P.S. and Distt.- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s :	Mr.Dhananjai Kumar Singh, Advocate
For the Respondent no.8 :	Mr.Baidya Nath Thakur, Advocate
	Mr. Prabhakar Kumar Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 24-06-2025

Heard learned counsel for the petitioner and learned
counsel for the respondent no. 8.

2. The petitioner is aggrieved by the order dated 02.12.2022 passed by learned Sub Judge-II, Madhubani in Title Suit No. 515 of 2014 whereby and whereunder at the instance of respondent no. 8 the report of Survey Knowing Pleader Commissioner dated 11.02.2020 has been rejected.

3. Learned counsel for the petitioner submits that the impugned order is not sustainable and the same has been passed without consideration of the facts and circumstances. The Survey Knowing Pleader Commissioner has submitted its report answering each and every point for which writ has been issued to the learned Commissioner but only on the ground that the report has been submitted after about two years and there were some doubt over the preparation of field book, the report has been rejected by the learned trial court. Learned counsel further submits that moreover the objection to the report has been raised after two years of filing of the report. Learned counsel thus, submits that the order of the learned trial court dated 02.12.2022 rejecting the report of the Pleader Commissioner be set aside.

4. Learned counsel appearing on behalf of respondent no. 8 vehemently contends that the Survey Knowing Pleader Commissioner submitted a report in collusion with the plaintiff and for this reason the field book on which the respondent no. 8

put his signature has not been filed on record. Rather a concocted and manufactured field book has been placed on record. Moreover, the learned Survey Knowing Pleader Commissioner took his own time and though he visited the site on 27.05.2018, he submitted his report only on 11.02.2020. The measurement report and field book do not contain the signature of the parties and there is no explanation for the same. Learned counsel further submits that the answering respondent had submitted an application on 02.11.2019 mentioning the fact that the learned Survey Knowing Pleader Commissioner has not submitted the report and there was no chance of any unbiased report from the learned Survey Pleader Commissioner. Learned counsel further submits that due to intervening period of COVID-19, the objection to the report of Survey Knowing Pleader Commissioner has been filed only in the year 2022.

5. Having regard to the rival submission of the parties and on perusal of the record, it is apparent that the learned trial court has passed an order supported with reasons and the impugned order is a speaking order. Further in the reasoning given by the learned trial court this fact has been prominently mentioned that the Pleader Commissioner has been appointed at the instance of the respondent no. 8, but the field

book/measurement book does not contain signatures of respondent no. 8 though the respondent no. 8 claims to have put the signature when the measurement work was being done. Further, the learned Pleader Commissioner has not given any reason for not submitting a report after about two year. These facts create a doubt over the veracity and truthfulness of the report of the learned Pleader Commissioner and hence, the impugned order rejecting the report of learned Pleader Commissioner on the aforesaid grounds could not be faulted Hence, the impugned order dated 02.12.2022 is affirmed.

6. Accordingly, the present petition is dismissed.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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