

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1596 of 2017

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Bikrama Singh Son of late Tapesar Bhagat Resident of Village Bagahawa
Mishra, P.O. Sisai, P.S. Bhore, District- Gopalganj.

... .. Petitioner/s

Versus

1. Brij Narayan Singh and Anr Son of late Tapesar Bhagar Resident of Village Bagahawa Mishra, P.O. Sisai, P.S. Bhore, District- Gopalganj.
2. Sanjay Kumar Singh Son of Harhangi Singh Resident of Village Kushhar , P.O. Sisai, P.S. Bhore, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Dwivedi
For the Respondent/s : Mr.Dewanand Tiwari

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CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

8 05-02-2026 Heard learned counsel for both the parties.

2. The present civil miscellaneous application has been filed for quashing the impugned order dated 07.05.2017/08.05.2017 passed by learned Sub-Judge-XV, Gopalganj in Title Suit No. 406 of 2011 by which he rejected the petition dated 24.04.2017 filed for marking the commissioner's report as an exhibit after reopening the evidence.

3. The report of the Survey-Knowing Pleader Commissioner, who was appointed in this case by order of the Court, was not taken into evidence as it was not exhibited, for which the petitioner had filed a petition. The said petition was rejected solely on the ground that the case was fixed for



arguments and that the evidence of the Survey-Knowing Pleader Commissioner was not important, and further on the ground that the evidence of both the parties had already been closed.

4. Learned counsel for the petitioner submits that survey knowing pleader commissioner was appointed by the order of the Court and if the survey knowing pleader commissioner was appointed, his report must come on the record. However, what is the relevancy and evidentiary value of that report in decision of the case will be considered at the time of judgment but if exercise has already been taken by the Court for appointment of survey knowing pleader commissioner, his report appears to be necessary in this case.

5. The case has been pending consideration since 2011, and it appears that since 07.05.2017 the matter has been fixed for final arguments. In view of the aforesaid facts, the impugned order dated 07.05.2017 is hereby set aside, and the petitioner is granted liberty to examine the Survey-Knowing Pleader Commissioner to prove his report. For this purpose, the petitioner is granted a period of fifteen days from the date of production/receipt of this order. If the defendant/respondent wishes to rebut the said evidence, he shall be at liberty to adduce evidence within a period of one month thereafter. In any



event, the case shall be disposed of within a period of three months.

6. With the aforesaid, the present application stands disposed of.

(S. B. Pd. Singh, J)

Ankit Kumar/-

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