

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15698 of 2014

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Sachindra Kumar Sahni @ Sachidanand Sahni son of Late Mishri Sahni
Resident of Mohalla - Magardahi Karimabad, Police Station and District -
Samastipur.

.... Petitioner/s

Versus

1. Pradeep Chandra Lal son of Late Prakash Chandra Lal Resident of Mohalla - Station Road, New Ward No. 7, P.O. + P.S. and District - Samastipur.
2. Tarkeshwar Nath Gupta son of Late Ram Narayan Gupta Resident of Mohalla - Gudri Bazar, Ward no. 7, P.O. + Police Station and District - Samastipur.
3. Asha Devi wife of Late Ram Narayan Prasad Resident of Mohalla - Station Road, New Ward No. 7, P.O. + P.S. and District - Samastipur.
4. Smt. Mala Devi wife of Maheshwar Chaudhary Resident of Village - Laskara, P.S. - Tajpur, District - Samastipur.
5. Smt. Ranju Devi wife of Lal Babu Sahni Resident of Village - Harpur Nawada, P.O. - Rahimpur, P.S. - Sonapur, District - Chapra.
6. Ram Bhorsh Mukhia son of Raghu Mukhia.
7. Dipak Kumar (Minor) son of Ram Bhorsh Mukhia under the guardianship of his father namely Ram Bhorsh Mukhia and he has no adverse interest against him. Both resident of Village - Bhirha, P.O. - Bhirha, P.S. - Rosera, District - Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar No.-1
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 24-09-2015 Heard the learned counsel for the parties. With the consent of the parties, this writ application has been heard on merits and is being disposed of at this stage.



The petitioner is aggrieved by the order by which his prayer for stay of the further proceeding in the execution case has been turned down by the appellate court below. There is no dispute that a decree for declaring the title and entitling the plaintiff for recovery of possession was passed in a suit against the present petitioner who was defendant in that suit. The plaintiff thereafter has filed the execution case praying for delivery of possession over the suit property after dispossessing the defendant-petitioner. In the meantime, the defendant-petitioner has filed appeal.

From the submissions and the records, it is manifest that the appellate court below has granted the prayer for stay of further proceeding of the execution case twice i.e. by order dated 02.07.2013 and 27.06.2014. In both the orders, the appellate court below granted the stay as prayed by the appellant therein (the present writ petitioner) on the condition that the argument in the appeal would be completed within the time frame. The appellant did not adhere to the said time frame and did not conclude their argument within the said time frame. By the impugned order, the appellate court below has declined the prayer on behalf of the appellant-petitioner for stay of the further proceeding in the execution case.

Earlier the notice was issued to the respondents and the learned counsel for the respondents is present and has been heard.

After some arguments, the learned counsel for the parties have agreed that a direction be issued to the learned court below to allow the petitioner to place their argument in the appeal on the next date which has been said to be 07.10.2015. The learned counsel for the petitioner has categorically stated that the petitioner would place their submissions on 07.10.2015 positively.

The counsel for the respondents has raised no objection to the said prayer.

Accordingly, the present writ application is allowed in view of the aforesaid stand on behalf of the petitioner that he would place his submissions in the Title Appeal No. 24 of 2010 pending before the learned A.D.J.-II, Samastipur on next date or on such other dates which the court may fix in its discretion for the said purpose. At this juncture, the learned counsel for the respondents has prayed that a period for disposal of the appeal may be fixed.

Accordingly, the learned court below is directed to expeditiously proceed with the hearing of the appeal and conclude the same preferably within three months from the date of

receipt/production of this order.

During the pendency of the appeal, the petitioner shall not be dispossessed from the suit property through the process of the execution proceeding.

The writ application is accordingly, disposed of with the aforesaid observations and directions.

(V. Nath, J)

Devendra/-

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