

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3779 of 2011

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Smt. Santosh Devi Kedia, Wife of Vijay Kumar Kedia, resident of village Jogbani,
Ward No. 1, Sadar Road, P.S.- Jogbani, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar
2. Narayan Lohar @ Narayan Thakur, son of Late Tekan Thakur, resident of
village Maheshwari Uttarwani, Ward No. 8, Jogbani, Notified Area Committee,
P.S.- Jobgani, District- Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. S.RAZA AHMAD AAG9

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 17-08-2015

Nobody appears on behalf of the plaintiff-petitioner.

Heard Mr. Shashi Nath Jha who has appeared on behalf of
contesting defendant.

The plaintiff is aggrieved by the order dated 11.6.2010 passed
in Eviction Suit No. 4 of 2005 by the Munsif, Araria staying further
proceeding of the Eviction Suit on the ground that a Second Appeal is
pending in this Court in respect of the suit land between the parties.

Mr. Jha submits that earlier to the present eviction suit, the
defendant-respondent had filed a title suit bearing Title Suit No. 315
of 1991 in which the parties and the subject matter of suit were the
same. The same was rejected by the Trial Court as well as the
Appellate Court against which a Second Appeal being S.A. No. 60 of

2008 has been preferred which has been admitted to hearing. It is stated that earlier to this when the appeal of the respondent was pending, similar order was passed restraining the Trial Court from proceeding further in the matter until disposal of the title appeal. He has relied on the case of **Atma Ram Khemka vs. Punjab National Bank** reported in 2008 (2) PLJR 449 as well as on the case of **Shri Ram Tiwary vs. Bholi Devi [A.I.R. 1994 Pat. 76]** in order to justify the correctness of the order.

If the subject land of the suit and the parties are the same then the eviction suit in respect thereof should normally not to be allowed to proceed. Counsel for the defendant has rightly referred to these case laws in support of the impugned order.

This Court does not find any patent legal flaw in the impugned order meriting interference.

The writ application is dismissed.

(Kishore Kumar Mandal, J)

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