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IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8328 of 2014

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1. Yadu Sah Son of Badri Sah.
2. Siya Ram Sah son of Yadu Sah.
3. Ramnarayan Sah Son of Mahadeo Sah.
4. Sidhu Sah son of Badri Sah All are Resident of Village- Bhitaha Nizamat, P.O. Bairiya, P.S. Bairiya, District- West Champaran.

.... Petitioner/s

Versus

1. Bibhakar Shukla.
2. Arunakar Shukla both are sons of Late Rampati Shukla.
3. Gunakar Shukla.
4. Sudhakar Shukla both are Sons of Late Murlidhar Shukla.
5. Prabhakar Shukla Son of Late Suresh Shukla all are resident of village- Bhitaha, P.O. P.S. Bairiya, District- West Champaran.
6. Badri Narayan Dubey son of Late Dhonukdhari Dubey Resident of Village- Bhitaha, Nizam, P.S. Bairiya, District- West Champaran.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 13-01-2015

Heard the learned counsel appearing on behalf of the petitioners and the learned counsel appearing on behalf of the decree holder-respondents.

This application under Article 227 of the Constitution of India has been filed against the order dated 19.04.2014 by which the appellate court below has rejected the petition filed by the judgment

debtor-petitioner for stay of further proceeding of the execution case under Order 41 Rule 5 C.P.C.

The learned counsel for both the parties have jointly submitted that in appeal the argument is almost complete inasmuch as the decree holder-respondents have even filed their written argument before the appellate court below. The learned counsel for the decree holder-respondents have further also agreed that the decree holder will not take delivery of possession if the appeal pending in the court below is directed to be finally decided within a time frame. The learned counsel for the petitioners has also expressed his willingness to cooperate in the disposal of the appeal within a time frame.

After considering the submissions on behalf of the parties, this writ application is disposed of with direction to the appellate court below to dispose of the appeal preferably within three months from the date of receipt/production of this order. The learned counsel for both the parties have agreed that the respective parties would extend their full cooperation in disposal of the appeal in the court below within the said time frame. During the pendency of the appeal in the court below, the decree holder-respondents have agreed that they would not take the delivery of possession through the process of Execution Case No. 05 of 2012 to the court of learned Subordinate Judge-3rd, West Champaran, Bettiah.

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

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(V. Nath, J)

Devendra/-

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