

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.779 of 2016**

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Birendra Prasad Gupta

.... Appellant/s

Versus

Mahendra Jha & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rakesh Ranjan Verma

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 30-08-2016

Heard the learned counsel, Mr. Rakesh Ranjan Verma
for the petitioner.

Perused the impugned order dated 18.06.2016 passed
by the learned Munsif, Pupri, District-Sitamarhi in Eviction Suit
No.1 of 2009 whereby the learned Court below rejected the
application filed by the present petitioner under Section 10 of the
Code of Civil Procedure praying for stay of further proceeding
during the pendency of Title Suit No.165 of 2009.

From perusal of the impugned order, it appears that the
Court below clearly recorded a finding that in the eviction suit
only this petitioner is defendant whereas the plaintiffs of Title Suit
No.165 of 2009 are not party in the eviction suit.

In view of the above facts and circumstances of the case
and finding recorded by the Court below, in my opinion, the
petitioner is only dragging the case as the Court below has held

that the eviction suit is at the stage of argument. It appears that the petitioner is trying to linger the disposal of the eviction suit by filing these types of frivolous and vexatious applications and using the process of the Court.

Therefore, this Civil Miscellaneous application is dismissed with cost of Rs.5,000 to be deposited by the petitioner in the eviction suit in the Court below within one month failing which the cost may be realized by the Court through the process of law. If it is deposited, the plaintiffs shall be at liberty to withdraw the same.

(Mungeshwar Sahoo, J)

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