

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2603 of 2014

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1. Sudama Chaudhary S/O Late Jamuna Chaudhary Resident Of Mohalla-
Rupganj, Village Manjhi, P.O- Chapra, Police Station- Chapra Town,
District- Saran (Chapra)
 2. Bhaagirathi Devi D/O Late Jamuna Chaudhary Resident Of Mohalla-
Rupganj, Village Manjhi, P.O- Chapra, Police Station- Chapra Town,
District- Saran (Chapra)

.... Petitioner/s

Versus

1. Daya Muni Devi W/O Late Gopal Chaudhary Resident Of Mohalla-
Rupganj Adda No. 2, P.O- Chapra, Police Station- Chapra Town, District-
Saran (Chapra)
2. Chandan Kumar S/O Late Gopal Chaudhary Resident Of Mohalla-
Rupganj Adda No. 2, P.O- Chapra, Police Station- Chapra Town, District-
Saran (Chapra)
3. Shyam Kumar Minor S/O Late Gopal Chaudhary, Under Guardianship
Of His Mother Daya Muni Devi Resident Of Mohalla- Rupganj Adda No. 2,
P.O- Chapra, Police Station- Chapra Town, District- Saran (Chapra)
4. Vinita Kumari Minor D/O Late Gopal Chaudhary, Under Guardianship
Of His Mother Daya Muni Devi Resident Of Mohalla- Rupganj Adda No. 2,
P.O- Chapra, Police Station- Chapra Town, District- Saran (Chapra)
5. Sarita Devi W/O Tufani Chaudhary And D/O Late Gopal Chaudhary
Resident Of Village- Revilganj, Semariya, P.O And Police Station-
Revilganj, District- Saran (Chapra)
6. Sweta Devi W/O Ashok Chaudhary And D/O Late Gopal Chaudhary
Resident Of Village- Doriganj, P.O And Police Station- Doriganj, District-
Saran (Chapra)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bashishtha Narayan Mishra
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 07-01-2016

Heard learned counsel for the petitioners.

This application, under Article 227 of the Constitution
of India, has been filed by the petitioner for issuance of a writ in
the nature of mandamus or any other appropriate writ order

asking the learned court below to implement the judgment and decree passed in Eviction Suit No. 20 of 1986/ 02 of 1984 in Execution Case No. 03 of 2003.

The Hon'ble Supreme Court, in the case of ***Radhey Shyam vs. Chavi Nath*** reported in **2009 (5) SCC 616**, has held that under Article 227 of the Constitution of India, the High Court does not issue a writ of certiorari. Article 227 of the Constitution of India vests the High Court with a power of superintendence, which is to be sparingly exercised to keep tribunals and courts within the bounds of their authority. Under Article 227 of the Constitution, orders of the civil court can be examined only in very exceptional case, when manifest miscarriage of justice has been occasioned. Therefore, while exercising jurisdiction under Article 227 of the Constitution, the High Court can examine the orders of the civil court to see as to whether, any manifest miscarriage of justice has been occasioned or not. For blanket direction, no application, under Article 227 of the Constitution of Indian, is maintainable.

The Hon'ble Supreme Court, in the case of ***Shalini Shyam Shetty vs. Rajendra Shankar Patil*** reported in **2010 (8) SCC 329**, has held that a writ can be issued by the High court under Article 226 of the Constitution of India and by the Supreme

Court under Article 32 of the Constitution of India, no writ petition can be moved under Article 227 of the Constitution of India nor can a writ be issued under Article 227 of the Constitution of India. Therefore, the relief, claimed by the petitioner, is not maintainable. However, the petitioner may press the grievance before executing court for expeditious disposal and it is expected that the executing court shall expedite the disposal within reasonable period. Accordingly, with this observation, this application is dismissed.

(Mungeshwar Sahoo, J.)

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