

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8839 of 2014

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1. Ramu Yadav
2. Lakshman Yadav
3. Kamal Yadav
4. Khiru Yadav All Son of Late Motilal Yadav Resident of Village - Pandaypur Agarauli, P.S. - Darauda, District - Siwan.

.... Petitioners.

Versus

1. Most. Larho Devi Wife of Ganesh Prasad Yadav.
2. Om Prakash Yadav Son of Ganesh Prasad Yadav.
3. Anil Kumar Yadav Son of Ganesh Prasad Yadav.
4. Sima Devi Daughter of Ganesh Prasad Yadav.
5. Indu Devi Daughter of Ganesh Prasad Yadav.
6. Amit Kumar
7. Ajit Kumar
8. Sanjay Kumar
9. Bindu Kumari Respondent no. 6 to 9 Son/Daughter of Ganesh Prasad Yadav.
10. Bhola Yadav
11. Gulab Yadav
12. Pintu Yadav Respondent no. 10 to 12 Son of Jai Kishun Yadav
13. Kishori Devi Wife of Late Jai Kishun Yadav.
14. Madan Yadav Son of Babu Lal Yadav All are resident of Village - Pandeypur Agrauli, P.S. - Darauda, Post - Chanchaura, District - Siwan.

.... Respondents.

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 26-04-2016

Heard the learned counsel for the petitioners.

This application has been filed seeking only a direction to the court below to dispose of the petition filed by the petitioners on 02.04.2014 whereby the permission has been sought to repair the house of the petitioners situated over the suit land where the petitioners are residing.



From the records it appears that there has been a decree against the petitioners for the suit properties and an execution case has been filed for execution of the said decree. The petitioners thereafter have filed T.S.No.161/2006 praying for relief against the said decree. The said suit obviously has been filed in the year 2006. However, the learned counsel for the petitioners accepts that no interim order for stay of the execution proceeding filed by the decree holder-opposite parties for execution of the previous decree has been prayed and there is no such statement in the application. It further transpires that the petitioners filed a petition on 02.04.2014 (Annexure-2) praying for permission to repair the house subject matter of the suit. Soon thereafter on 09.05.2014 the present application has been filed under Article 227 of the Constitution of India for a direction to the court below to dispose of the said petition. There is no averment in the entire application on behalf of the petitioners that they had made any prayer before the learned court below in the suit for disposal of the said petition or had pressed the said petition at any time before filing and approaching this Court invoking the jurisdiction under Article 227 of the Constitution of India. These facts lead to the inference that the present application has not been filed bonafidely

and in fact the petitioners' intention to obtain some order from this Court in order to dilute the efficacy of the decree passed against them is obvious.

In this fact situation, this Court was earlier contemplating to impose heavy cost upon the petitioners. However, after considering the prayer by the learned counsel for the petitioners, this Court refrains from imposing the cost but dismisses the present application as misconceived and frivolous with warning to the petitioners not to indulge in such activities for obtaining orders from the Court by camouflaging the facts.

(V. Nath, J)

Nitesh/-

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