

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7101 of 2016

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Smt. Sunderpati Devi

.... Petitioner/s

Versus

Neelam Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Rai

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 02-05-2016

Heard the learned counsel, Mr. Nagendra Rai for the
petitioner.

In Execution Case No.2 of 2014, the learned Sub Judge
V, Gopalganj rejected he application filed by the petitioner under
Section 47 of the C.P.C.

It appears that in the execution case, the application
under Section 47 of C.P.C. was filed by the petitioner raising the
plea that the description given in the decree is different than the
property described in the execution petition. The Court below after
recording a finding that the properties described in both are same
and accordingly, rejected the application.

The Hon'ble Supreme Court in the case of **Dhurandhar**
Prasad Singh v. Jai Prakash University and others, AIR 2001
Supreme Court 2552 held that "under S.47 all questions arising
between the parties to the suit in which the decree was passed or



their representatives relating to the execution, discharge or satisfaction of decree have got to be determined by the Court executing the decree and not by a separate suit. The powers of Court under S.47 are quite different and much narrower than its powers of appeal revision or review. The exercise of powers under S.47 is microscopic and lies in a very narrow inspection hole. Thus it is plain that executing Court can allow objection under S.47 to the executability of the decree if it is found that the same is void ab initio and nullity, apart from the ground that decree is not capable of execution under law either because the same was passed in ignorance of such a provision of law or the law was promulgated making a decree inexecutable after its passing.”

In view of the above position, I do not find any reason to interfere with the impugned order in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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