

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7020 of 2015

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1. State of Bihar through Collector, Sitamarhi
 2. Anchal Adhikari, Nanpur, District- Sitamarhi

.... Petitioner/s

Versus

1. Rishikesh Chaudhary son of Late Bishwanath Chaudhary, resident of village- Raipur Kauria, Post- Raipur, Police Station- Pupari, District- Sitamarhi
2. Dr. Hasim Raza, son of Sk. Idrish
3. Md. Hamid Hussain, son of Samiullah Ansari
4. Md. Tahir Hussain, son of Md. Zakir Hussain, All are resident of village- Kauria Raipur, Post- Raipur, P.S.- Nanpur, District- Sitamarhi
5. Mast. Madina Khatoon, wife of Late Yakub
6. Mast. Jaimun Khatoon, wife of Late Yakub
7. Md. Afroj Sah
8. Md. Firoz Sah, Nos. 7 and 8 sons of Late Md. Yakub
9. Bibi Anuthi
10. Bibi Angoori Nos. 9 and 10 daughter of Late Md. Yakub
11. Bibi Chandni, minor daughter of Late Md. Yakub, under guardianship of mother and natural guardian Mast. Jaimu Khatoon
12. Mast. Makhiya Devi, wife of Late Mahaveer Thakur
13. Raj Nandan Thakur
14. Umesh Thakur
15. Rajesh Thakur
16. Chhotan Thakur
17. Sajan Thakur Nos. 13 to 17 sons of Late Mahaveer Thakur All resident of village + Post - Gaura, At present Post- Mohini, P.S.- Nanpur, District- Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar, AC-22
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

3 08-04-2016 Heard learned counsel, Mr. Neeraj Kumar AC to
SC-22 for the petitioner.

The State has filed this application under Article
227 challenging the order dated 10.01.2014 passed by learned

Adhoc A.D.J-II, Sitamarhi in Miscellaneous Case No. 18 of 2012 whereby the Court below rejected the said application for stay of further proceeding of Execution Case No. 01 of 2007.

It appears that the plaintiff-respondent filed Suit for eviction against the tenant. The Suit was decreed. Thereafter, the plaintiff filed Execution Case No. 01 of 2007. In the said Execution Case the State of Bihar filed an application under order 21 Rule 97, 99 and 101 of the Code of Civil Procedure and prayed for stay of the Execution Case. The Executing Court rejected the said application. Thereafter in view of order 21 Rule 103 of the Code of Civil Procedure, the State of Bihar has filed Misc. Appeal before the Lower Appellate Court. In the said Misc. Appeal, the stay application was filed by the State of Bihar under order 41 Rule 5 of Code of Civil Procedure praying for stay of the delivery of possession in Execution Case. It is admitted fact that the petitioner is not in possession of the tenant premises. The decree has been passed against the tenant who is in possession and the tenant is to be evicted. So far title of State of Bihar is concerned, it is yet to be decided in the Misc. Appeal. Even if the tenant is evicted from the Suit premises, the petitioner shall not suffer any serious loss and that there will be no failure of justice.

In view of the above facts and circumstances of the

case, I find that it is not a case of interference in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J.)

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