

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.283 of 2016

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Md. Basir Alam

.... Appellant/s

Versus

Bhagat Sah & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Binod Kumar Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 09-12-2016 At the time of hearing of the interlocutory application, both the parties submitted that the Civil Misc. application itself may be heard on merit in admission matter. Accordingly, I heard them on merit in admission matter.

Heard the learned counsel for the petitioner and the learned senior counsel, Mr. Ganapathy Trivedi, for the respondent.

The learned counsel for the petitioner submitted that there is no provision for granting stay of the execution case by the executing Court on the ground of pendency of an application under Order 9 Rule 13 CPC but the Court below by the impugned order has stayed the execution case till the disposal of Misc. case.

The learned senior counsel for the respondent does not dispute this fact and that the respondent has filed application under Order 9 Rule 13 CPC which has been registered as Misc. Case No.53 of 2015. He also admitted that stay application has been



filed before the Court in the Misc. case No.53 of 2015.

In view of the above facts and circumstances of the case, this Civil Misc. application is allowed, the impugned order dated 29.04.2016 passed by Subordinate Judge, Sikarhana at Dhaka, East Champaran in Title Execution case No.3 of 2015 is hereby set aside.

The stay application as submitted by learned counsel for the respondent has been filed in the Misc. case, therefore, it is made clear that the order passed by this Court will not prejudice either the petitioner or the respondent in the Misc. case.

(Mungeshwar Sahoo, J)

Sanjeev/-

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