

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.162 of 2015

In
Civil Writ Jurisdiction Case No. 9402 of 2012

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Bisheshwar Yadav, Son of late Ramadhar Yadav, Resident of Chotaki Sanadiya, P.O- Ratanpur, P.S- Ara Muffasil, District Bhojpur.

.... Petitioner

Versus

Uday Narain Yadav, Son of late Ramadhar Yadav Resident of Chotaki Sanadiya, P.O. Ratanpur, P.s Ara Muffasil, District Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

5 30-03-2016

Heard.

The present application has been filed to review the order dated 10.10.2014 passed in C.W.J.C. No. 9402 of 2012, whereby the aforesaid writ application of the petitioner was dismissed which was preferred against the order dated 02.04.2012 passed in Execution Case No. 22 of 2011 rejecting the objection petition of the petitioner filed under Section 47 of the Code of Civil Procedure to stay the execution proceeding.

Learned counsel appearing for the petitioners submits that the Execution Case No. 22 of 2011 was preferred by the opposite party no. 3 for execution of order passed by the Gram Kachahari in partition suit filed by the O.P. No. 3. The petitioner,



who was Opposite Party in the Gram Kachahari filed the application under Section 47 of the Code of Civil Procedure in Execution Case No. 22 of 2011 before the execution Munsif Ara to stay the proceeding on the ground that the valuation of the land covered in the partition suit is more than 10,000/-, but the learned execution Munsif illegally rejected the application of the petitioner. Further submission is that the petitioner had filed the Appeal No. 2 of 2011 in the Court of Sub-Judge, Ara, which is also dismissed and the petitioner has filed the C.W.J.C. No. 14168 of 2014 which is pending for disposal and there was order to disposal of the said C.W.J.C. with C.W.J.C. No. 9402 of 2012.

The C.W.J.C. No. 9402 of 2012, filed by the petitioner against the order dated 02.04.2012 passed by the execution Munsif Ara in Execution Case No. 22 of 2011, is dismissed vide order dated 10.10.2012. The execution Munsif dismissed the application of the petitioner filed under Section 47 of the C.P.C to stay the execution proceeding on 02.04.2012 taking into consideration that Gram Kachahari has passed the order for partition of property on the consent of the parties as required under the proviso of Section 110 (K) of Panchayat Raj Act as also that Appeal No. 02 of 2011 is pending before Sub-Judge, Ara against order under execution and no stay order has

been passed in that appeal. As far as the pendency of C.W.J.C. No. 14168 of 2014 0filed by the petitioner against the order passed in Appeal No. 02 of 2011 is concerned, that writ petition has its own merit.

As such, I find no substance and merit in this application to review the order dated 10.10.2014 passed in C.W.J.C. No. 9402 of 2012. Accordingly, this review application is dismissed.

(Rajendra Kumar Mishra, J.)

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