

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3196 of 2014

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Smt. Longi Devi

.... Petitioner/s

Versus

Amar Mohan Thakur & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Manoj Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

5 18-01-2016

Heard learned senior counsel Mr. Rajendra Narayan

for the petitioner and learned counsel Mr. Gyanendra Rai for the respondents.

2. The judgment-debtor-petitioner has filed this application under Article 227 of the Constitution of India for setting aside the order dated 26.10.2013 passed by Subordinate Judge-IV, Bhagalpur in Title Execution Case No.02 of 1991 whereby the court below has rejected the application filed by the petitioner under Order 21 Rule 29 CPC.

3. It is admitted fact that the suit being Title Suit No.23 of 1993 is pending between the same parties, which is filed by the petitioner for setting aside the judgment and decree passed by the Court where execution case is pending in Title Suit No.225 of 1982. The court below by the impugned order rejected the said application only on the ground that although the evidence of both

the parties has already been concluded in the year 2003 but still date the petitioner is not getting the said suit disposed of and, therefore, the further proceeding in execution case cannot be stayed.

4. Learned counsel for the respondents submitted that because of fault on the part of the petitioner the suit is pending although the evidence of both the parties have already been concluded in the year 2003. The learned counsel further submitted that after passing the order the executing court has already delivered a part of the suit property, which is vacant land. The execution case is pending for execution of the decree with respect to the constructed part over the suit property.

5. Without going to the merits as to whether at the instance of the petitioner the suit is pending or at the instance of the respondents the suit is pending, it can be said that the suit is very old suit, which is of the year 1993 and that admittedly so far vacant portion of the land is concerned, the delivery of possession has been effected and now on the suit property i.e. the constructed building the petitioner is residing, this Court expects that the trial court shall make endeavour to dispose of the suit itself within a reasonable short period preferably within the last week of April, 2016. The parties are expected to assist the Court to dispose of the

suit within the aforesaid period without granting any unnecessary adjournments and till then further proceeding in Title Execution Case No.02 of 1991 shall remain stayed.

6. With this observation, this writ application is disposed of.

(Mungeshwar Sahoo, J)

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