

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23752 of 2013

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Basdeo Yadav son of late Dukhan Yadav, R/O Village-Barawa, PS-Chautarawa, Distt-West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Law Secretary, Govt. of Bihar, Patna.
2. Umesh Prasad, son of Late Paspas Prasad,
3. Shankar Prasad, son of late Paspas Prasad,
4. Munna Prasad son of late Paspas Prasad,
5. Satrudhan Prasad, son of late Paspas Prasad, all residents of, Village-Barawa, PS-Chautarawa, Distt-West Champaran
6. Bhagmati Devi, daughter of late Paspas Prasad, wife of Dharmnath Prasad, R/O Mohalla- Prakash Nagar, PS, Shikarpur, Distt-West Champaran.
7. Subhawati Devi, D/O late Paspas Prasad, wife of Suresh Prasad, Resident of Village-Jamuniya, PS-Bathwariya, Distt-West Champaran.
8. Lilawati Devi D/O of Late Paspas Prasad, wife of Bashisth Prasad, R/O village-Jhakhara, PS-Gopalpur, Distt-West Champaran.
9. Antima Devi, D/O late Paspas Prasad wife of Subodh Prasad, R/O Mohalla, Naga Road, Raxaul, PS-Raxaul, Distt-East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prithvi Nath Mishra, Advocate
 Mr. Ajay Kumar Pandey, Advocate
 For the Respondent/s : Mr. Ravi Bhardwaj, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 02-03-2016 Heard learned counsel for the petitioner as well as
 learned counsel for Respondent No.2.

2. Title Appeal No. 30/2010 has been brought up at the instance of petitioner wherein vide order dated 22.12.2010, the learned District Judge, West Champaran at Bettiah had granted stay. It is apparent that during midst thereof, the appellant never cared to have the appeal argued and disposed of at an earliest rather allowed the appeal to remain pending and during midst

thereof, vide order dated 25.09.2013, the Additional District Judge, West Champaran at Bettiah had vacated the order dated 22.12.2010 which happens to be the subject matter of instant petition.

3. Then thereafter, I.A. No.737/2016 has been filed on behalf of petitioner to grant stay on the plea that Execution Proceeding bearing no. 6/2010 pending before the learned lower court, on account of recalling of order dated 22.12.2010, the same proceeded and now, fee has been deposited for deployment of JCB machine in order to dismantle the house of the petitioner. It has also been submitted that Title Suit No. 23/2007 was decided in *ex parte* manner, therefore, natural justice leans in favour of petitioner, whereunder, at least, Execution Proceeding before the learned lower court should be stayed till the final disposal of the instant petition.

4. Learned counsel for the respondent opposed the prayer and submitted that there happens to be a willful negligence at the end of the petitioner and to support the same, it has been submitted that stay was granted for a limited period only, upto 16.03.2011 and since thereafter, no such prayer has been made.

5. Be that as it may, the learned trial court is directed to dispose of the instant appeal within two months from the date of

receipt/production of instant order whereunder both the parties will actively co-operate. Till then, further proceeding in Execution Case No. 06/2010 pending before learned lower court is stayed.

6. In case, there is failure on the part of the petitioner in getting the appeal disposed of within the aforesaid stipulated period of two months by having his active co-operation, then in that event, the stay so granted relating to Execution Case No. 06/2010, will evaporate.

7. With the aforesaid observation, the instant petition as well as I.A. No.737/2016 are disposed of.

(Aditya Kumar Trivedi, J)

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