

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1395 of 2016**

Ekram Sharfuddin

.... Appellant/s

Versus

The State of Bihar & Ors

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Binoy Kumar

For the Respondent/s : Mr. Subhash Chandra Yadav-Gp15

**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 13-12-2016 Heard the learned counsel, Mr. Nawal Kishore Singh
for the petitioner and the learned counsel for the State.

Perused the order dated 02.08.2016 passed by the learned Execution Munsif I, Patna in Execution Case No.10 of 2012 whereby the learned Court below rejected the application filed by the petitioner under Section 47 of the Code of Civil Procedure objecting to the executability of the decree.

It appears that plaintiffs-respondents filed Eviction Case No.21 of 2007 against the petitioner under the Bihar Building(Lease, Rent & Eviction) Control Act, 1982 for eviction of the defendant-petitioner. The defendant-petitioner filed contesting written statement. The suit was decreed on contest. The plaintiffs-respondents-decree holder then filed Execution Case No.10 of 2012 for execution of the decree. Admittedly, the petitioner did not file appeal against the judgment and decree, as



submitted by the learned counsel, Mr. N.K.Singh for the petitioner.

In the execution case, application under Section 47 C.P.C. was filed objecting to the executability of the execution case on the ground that the land over which the shop premises of the petitioner is situated belonged to the State of Bihar and cases are pending before the High Court.

According to the learned counsel, if the judgment and decree is allowed to be executed and if the petitioner will be evicted pursuant to the execution case, it will cause irreparable loss to the petitioner. The State of Bihar is the owner and the petitioner is a tenant under the State of Bihar.

From perusal of the impugned order, it appears that eviction suit has been decreed on contest. No appeal has been filed by the petitioner. The question raised by the petitioner that the land belonged to the State of Bihar on which the shop premises is situated and the petitioner is the tenant of the State of Bihar is a question that cannot be examined in an application under Section 47 C.P.C. The learned court below, therefore, considering these facts and circumstances of the case has rejected the application under Section 47 C.P.C.

Thus, I find no reason to interfere with the impugned



order in exercise of supervisory jurisdiction. Accordingly, this
Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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