

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.66 of 2016

Must. Jayanti Devi

.... Appellant/s

Versus

Ganesh Prasad Singh

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Jyoti Ranjan Jha

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 02-08-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated 18.01.2016 passed by Civil Judge (Junior Division)II, Munger in Title Execution Case No.15 of 1999/CIS 206 of 2013 whereby the learned court below rejected the application filed by the petitioner under Order 21 Rule 29 CPC for stay of execution case during pendency of the suit filed by the petitioner.

From perusal of the impugned order, it appears that the court below recorded clear finding that the suit filed by the petitioner has already been abated as a whole and for setting aside abatement miscellaneous case is pending. Therefore, at this stage the suit is not in existence, as such, Order 21 Rule 29 CPC is not applicable.

In view of the above position that the suit is not in existence now, the court below has rightly rejected the application

filed by the present petitioner. However, if the suit will be reviewing after setting aside abatement then the petitioner may file such application again before the court below and if such application is filed, the same may be disposed of by the court below according to law on merit.

Accordingly, this civil miscellaneous application is dismissed with the aforesaid liberty.

(Mungeshwar Sahoo, J)

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