

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.126 of 2016**

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Alisher Khan & Anr

.... Appellant/s

Versus

Khurshid Khan & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Naresh Prasad

For the Respondent/s : Mr.

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

2 17-05-2016

Heard learned counsel Mr. Naresh Prasad for the
petitioners.

Learned Sub-Judge-1st, Gopalganj, by the order
dated 15.12.2015 passed in Execution Case No. 12 of 2014
rejected the objection application filed by the Judgment debtors.

The aforesaid execution case has been filed by the
decree holder respondents for execution of the final decree. The
petitioners filed application for dismissing the execution case on
the ground that the decree has been passed against dead persons
i.e. prior to passing the decree many plaintiffs and some of the
defendants have also died but no substitution has been made.

Learned Court below has held that the defendant
has no role to play as the heirs of the deceased defendants have
not filed objection. Moreover, the heirs of the deceased plaintiffs
have filed execution case and therefore, the objection petition has

been rejected on that ground. The question whether the decree is nullity depends on the question of fact raised by the petitioner.

Therefore, the learned Court below has rightly rejected the application of the petitioner and I find no reason to interfere with the impugned order.

Accordingly, this writ application is dismissed

(Mungeshwar Sahoo, J.)

Amit/-

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