

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.693 of 2016

=====

Most. Sharadha Devi & Ors

.... Appellant/s

Versus

Kapildeo Rai & Anr

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Devendra Kumar

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 12-08-2016 Hear the learned counsel, Mr. Waliur Rehman, for the petitioner.

It appears that earlier Civil Misc. No.56 of 2016 was filed by the petitioner praying for direction to the appellate Court to hear the application filed for extension of the period of stay. This Court on 13.07.2016 directed the petitioner to press the application to pursue the matter before the appellate Court, i.e., where the application has been filed and is pending. Instead of pressing that application before the appellate Court wherein prayer has been made for extension of the period of stay granted on 20.08.2015, the petitioner filed application before the executing Court to keep the execution case abeyance till the disposal of the title appeal.

From perusal of this Civil Misc. application also, it appears that nowhere it is mentioned that why the petitioner is not pressing the application before the appellate Court. Instead of moving,

pressing the application before the appellate Court, the petitioner is praying for stay of execution before the executing Court and then coming to the High Court. From perusal of the order under challenge, it appears that the learned Court below has observed this fact and held that merely because appeal is filed, the execution case cannot be stayed, particularly when the period had expired long before.

I, therefore, find no reason to interfere with the impugned order. Thus, this Civil Misc. application is dismissed.

However, the petitioner, if so advised, may press the application pending before the appellate Court immediately.

(Mungeshwar Sahoo, J)

Sanjeev/-

U		T	
---	--	---	--