

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1472 of 2016**

=====

Lal Muni Devi

.... Appellant/s

Versus

Chinta Rai & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Binod Murari Mishra

For the Respondent/s : Mr.

=====

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

ORAL ORDER

2 21-12-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 13.08.2016 passed by the learned Additional Munsif III, Danapur in Execution Case No.2 of 1999 whereby the learned Executing Court clearly recorded a finding that the delivery of possession has already been effected and nothing remains to be delivered in favour of the petitioner.

It appears that earlier the petitioner himself has filed M.J.C. application before the High Court being M.J.C. No.4551 of 2013 arising out of CWJC No.14284 of 2012 wherein by order dated 02.07.2014, the High Court observed that the delivery of possession effected in favour of the son of the plaintiff is sufficient compliance of the order of the High Court passed in writ application. The argument of the petitioner that the execution case has not finally been terminated was disbelieved.



Now therefore, admittedly, the possession has already been delivered in favour of son of the petitioner. The eviction suit was filed for evicting the tenant from the suit premises. Admitted fact is that the tenant is not in possession of the property. Now therefore, the dispute is between the son of the petitioner and the petitioner which cannot be decided in this civil miscellaneous application.

Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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

