

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.256 of 2017**

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Ranju Devi

.... Appellant/s

Versus

Sumitra Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rama Kant Singh

For the Respondent/s : Mr.

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

2 15-02-2017

Heard learned counsel for the petitioner.

Perused the impugned order dated

22.01.2014/20.07.2016 passed by learned Subordinate Judge-IV,
Darbhanga in Execution Case No.04 of 2000 whereby the court
below has only directed to issue writ of delivery of possession
fixing the case for 17.08.2016.

The learned counsel for the petitioner submitted that
her objection under Section 47 of the Code of Civil Procedure is
pending but the court below has passed the impugned order and if
the order is allowed to stand then naturally it will occasion failure
of justice.

It may be mentioned here that the petitioner filed
objection under Section 47 of the Code of Civil Procedure raising
the executability of the execution case on the ground that she had
purchased the property from the judgment-debtor during pendency



of the execution case without knowledge of the decree. The said objection petition under Section 47 of the Code of Civil Procedure was registered as Miscellaneous Case No.09 of 2014. While issuing notice this court on 08.09.2016 in Civil Miscellaneous No.761 of 2016 has stayed the further proceeding of Miscellaneous Case No.09 of 2014. Now, therefore, when the petitioner admittedly had purchased the property during pendency of the execution case from the judgment-debtor, she stepped into the shoes of the judgment-debtor. So far objection under Section 47 of the Code of Civil Procedure is concerned, petitioner's case is that without knowledge of the decree she has purchased the property from the judgment-debtor. Therefore, the nature of the objection raised by the petitioner cannot be said to be a ground for not issuing delivery of possession of the suit property, particularly when the miscellaneous case arising out of Section 47 of the Code of Civil Procedure has already been stayed on the ground that the said application is not maintainable while issuing notice to the present petitioner. The order of the court is annexed as Annexure-3 to the civil miscellaneous application.

As stated above, from perusal of the impugned order, it appears that the court below has passed only a routine order. Therefore, it cannot be said that the order passed by the court



below is without jurisdiction or the order has been passed in the manner not permitted by law. As such, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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