

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.802 of 2017

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Bibi Akhtari Bano @ Akhtari Bano wife of Md. Nasiruddin Resident of Village -
Bharwara, P.S. Singhwara, District - Darbhanga at present residing at Mohalla -
Imli Bazar, Maruf - Terhi Bazar, P.S. Town Laheriasarai, District - Darbhanga.

.... Petitioner

Versus

1. Sama Praveen Wife of Nisar Ahmad Ansari Resident of Mohalla - Karamganj,
P.O. & P.S. Laheriasarai, District - Darbhanga.
2. Bibi Razia Begum Wife of Shamim Ahmad Khan Resident of Mohalla -
Maulaganj, P.O. & P.S. Laheriasarai, District - Darbhanga.
3. Md. Alimuddin Son of Md. Shahabuddin Resident of Mohalla - Rahamganj, P.S.
Laheriasarai, Town & District - Darbhanga.
4. Md. Zaffar Alam Son of Haji Md. Isha Ansari
5. Bibi Makina Khatoon Wife of Haji Md. Isa Ansari Both residents of Mohalla -
Karamganj, P.S. - Laheriasarai, District - Darbhanga.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Abinash Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 13-07-2017

Heard Mr.Abinash Kumar, learned counsel
appearing for the petitioner.

By the impugned order, the learned court below
has directed for appointment of Magistrate and police force for
effecting delivery of possession as prayed by the decree holder.

It transpires from the submissions as well as
from the records that by order dated 19.07.2016 passed in
F.A.No.251/2005 filed by the present petitioners against the judgment
and decree under execution the prayer for stay of the execution
proceeding has been allowed with regard to the residential portion of



the suit property but it has been specifically directed that the proceeding for execution of the decree with respect to the vacant land shall continue. It is also apparent that the said direction has been passed on the prayer of the petitioners and in presence of the respondents. While passing the impugned order, learned court below has taken into notice the aforesaid fact. As such, this Court does not find force in the submission on behalf of the petitioner that the vacant possession of the land is ingress and egress portion of the residential portion and therefore, the execution proceeding could not have continued even with regard to that extent. Such submission is definitely inconsistent with the order passed by this Court earlier as abovementioned.

This application, therefore, has got no merit and is, accordingly, dismissed. The interlocutory application also stands disposed of.

The dismissal of this appeal shall not preclude the petitioner to seek appropriate relief if any permissible in law.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2017
Transmission Date	

