

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17204 of 2013

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Suresh Prasad Malakar

.... Petitioner/s

Versus

Shakuntala Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bajrangilal

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 11-08-2017 Heard the learned counsel, Mr. Bajrangilal, for the petitioner.

By the impugned order dated 16.04.2013, the learned Munsif, Sheikhpura in Execution Case No.2 of 2011 has delivered possession in favour of the respondent No.1. This order is under challenged.

It appears that eviction suit was filed by the respondent No.1 against the present petitioner. The eviction suit was decreed and Execution Case No.2 of 2011 was filed. By the impugned order, the delivery of possession has been affected and thereby the tenant petitioner has been evicted.

The learned counsel, Mr. Bajrangilal, submitted that in Title Suit No.50 of 2012, there was an order passed by the Court for maintaining status quo. This order was brought to the notice of the executing Court but in spite of that delivery of possession was



affected and, therefore, the order impugned is liable to be set aside. The order passed in Title Suit No.50 of 2012 is Annexure '2' to this writ application. In the said order, it is only mentioned that till the defendant of the said suit filed show cause, status quo should be maintained.

It may be mentioned here that the word 'status quo' is a vague word. Section 41 of the Specific Relief Act clearly provides that 'an injunction cannot be granted to restrain any person from prosecuting a judicial proceeding pending at the institution of the suit in which the injunction is sought unless such restrained is necessary to prevent a multiplicity of proceeding.'

Admittedly, the eviction suit was filed in the year 2003, i.e., Eviction suit No.2 of 2003 whereas the subsequent suit has been filed by the tenant petitioner being Title Suit No.50 of 2012. Moreover by status quo order the respondent was not restrained from prosecuting the judicial proceeding, i.e., execution case.

Thus, I find no reason to interfere with the impugned order as such this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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