

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.167 of 2015

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Savitri Devi Wife of Narad Prasad Resident of Village - Mahua Singh Rai, P.O. &
P.S.- Mahua, District - Vaishali

.... Appellant/s

Versus

Shri Ram Sevak Sah Son of Ram Khelawan Sah Resident of Mohalla -
Brahampura, P.O.- M.I.T. P.S. Brahampura, District - Muzaffarpur

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. J. S. Arora, Advocate
Mr. Manoj Kumar, Advocate
Mr. Gaurav Pratap, Advocate
For the Respondent/s : Mr. Kumar Uday Singh, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the appellant and learned
counsel for the respondent on this appeal.

2. This miscellaneous appeal has been filed against the
order dated 23.01.2015 passed by 3rd Additional District Judge,
Muzaffarpur in Probate Case No. 23 of 2009 whereby the learned
lower court directed to maintain status quo till hearing of the petition
dated 14.11.2014 filed by the respondent in the said case.

3. Factual matrix of the case is that petitioner-
respondent filed probate case no. 23 of 2009. Opposite party –
appellant put her appearance in the case and filed written statement
and contested the same. During the pendency of the said case,



petitioner-respondent filed a petition on 14.11.2014 to restrain the appellant from executing any type of deed regarding the property in question. The said petition was heard in part by the learned lower court on 23.01.2015 and next date was fixed as 02.02.2015 for rest hearing on the said petition. In the meantime, both the parties were directed to maintain status quo till hearing of the said petition.

4. Being aggrieved and dissatisfied with the aforesaid order, opposite party-appellant has filed this appeal.

5. From perusal of the record, it appears that vide order dated 23.01.2015, the learned lower court had directed to maintain status quo till the hearing of the petition dated 14.11.2014. From perusal of the order dated 18.02.2015 filed by the respondent as annexure of the counter affidavit, it appears that both the parties submitted that they do not want to press the petition with the consent of each other as they are contesting the case, whereupon learned lower court ordered to send the case record to District Court, Muzaffarpur for registration of the said case as original suit.

6. As vide order dated 23.01.2015, status quo order was enforceable till disposal of the petition dated 14.11.2014 and as the said petition has not been pressed by the parties by mutual consent, the said petition impliedly stood disposed of, hence aforesaid status quo order also came to an end by the disposal of the aforesaid



petition and hence this appeal has become infructuous. Accordingly, this appeal stands dismissed as became infructuous.

7. It is submitted by learned counsel for the respondent that evidence of respondent has been concluded and evidence of appellant is also at the verge of conclusion. Hence, learned lower court is directed to dispose of the case as expeditiously as possible and both the parties are directed to extend all sorts of cooperation in the early disposal of the said case.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.12.2017
Transmission Date	

