

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.392 of 2017

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1. Gopal Kumar Gupta Son of late Ram Kishor Gupta Resident of Village- Naurabgam New Patel Chowk, P.S.-Town, P.O. - Begusarai, Distt- Begusarai.
 2. Chandana Gupta Wife of Gopal Kumar Gupta Resident of Village- Naurabgam New Patel Chowk, P.S.-Town, P.O. - Begusarai, Distt- Begusarai.

.... Appellant/s

Versus

1. Amrendra Kumar.
2. Jitendra Kumar.
3. Navneet Kumar all Sons of Jai Narayan Rai Resident of Meerganj Near Patel Chowk, Opposite to Axis Bank, P.O. , P.S. - Begusarai, Distt- Begusarai.
4. Sri Kumar Gaurav Son of late Sakaldeo Mahto Resident of Village- Bisunpur, P.O. Mirzapur, P.S. Begusarai , Distt- Begusarai.
5. Sri Jitendra Kumar Ram Son of late Ram Kishun Ram Resident of Village- Meerganj, P.O. Begusarai, P.S.- Begusarai, District- Begusarai.
6. Urmila Devi Wife of late Ram Deo Ram Resident of Village- Meerganj, Near Patel Chowk, P.S. -Town, P.O. and District- Begusarai.
7. Raju Ram Son of late Ram Deo Ram Resident of Village- Meerganj, Near Patel Chowk, P.S. -Town, P.O. and District- Begusarai.
8. Binod Ram Son of late Ram Deo Ram Resident of Village- Meerganj, Near Patel Chowk, P.S. -Town, P.O. and District- Begusarai. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kamal, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 27-04-2017

Heard learned counsel for the petitioners.

By the impugned order, the learned court below has stayed the further proceeding of the execution case in view of the pendency of the miscellaneous case filed by the respondent 2nd set



under Order 21 Rule 97 C.P.C.

The petitioners are the decree-holders in the suit against the defendant-respondent 1st set. The execution case has been filed by the petitioners for execution of the said decree for recovery of possession from the defendant-respondent 1st set over the suit premises. During the pendency of the execution case, however, a petition has been filed by the respondent 2nd set claiming their independent title and possession over the suit premises. By the impugned order, the learned court below has stayed the further proceeding of the execution case till the determination of the miscellaneous case.

It is by now well settled that the proceeding of the execution case shall be stayed till the determination of the objection under Order 21 Rule 97 C.P.C. The learned court below, therefore, has not committed any illegality in passing the impugned order.

The application is, accordingly, dismissed.

However, the dismissal of this application would not preclude the petitioners from raising objections which may be available to them in accordance with law questioning the tenability of the miscellaneous case under Order 21 Rule 97 C.P.C. in accordance with law.

Devendra/-

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(V. Nath, J)

