

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15917 of 2013

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1. Bhirgu Nath Rai, Son of Late Saryug Rai.
 2. Shakuntala Kunwar Wife of Late Shambhu nath Rai.
 3. Amit Prakash Rai, Son of Late Shambhu Nath Rai.
 4. Shilpi Kumari D/o Late Shambhu Nath Rai.
 5. Shweta Kumari D/o Late Shambhu Nath Rai.
 6. Anita Kumari D/o Late Shambhu Nath Rai.
 7. Alka Kumari D/o Late Shambhu Nath Rai.
 8. Sudhur Kumari D/o Late Shambhu Nath Rai.
 9. Upendra Rai Son of Late Saryug Rai.

All are the residents of Village- Sher, P.O.- Sher, P.S.-Sidhwalia, District-Gopalganj. Petitioners

Versus

Bageshwari Rai, Son of late Shiv Prasad Rai Resident of Village- Sher, P.O.- Sher, P.S.-Sidhwalia, District-Gopalganj.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. DHANANJAY KUMAR UPADHYAY

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 30-01-2017

Heard the learned counsel for the petitioners.

By the impugned order, the executing court has rejected the prayer on behalf of the decree holder-petitioner in the execution case for determining the quantum of mesne profits. From the records as well as the submissions on behalf of the petitioner, it becomes manifest that the decree for mesne profits was allowed in favour of the petitioners by the appellate court but no final decree in that regard as required under Order 20 Rule 12 C.P.C has been prepared. In this background the executing court has rightly held that the petition filed by the petitioners in the execution case for



determination of the quantum of mesne profits after condonation of delay was not maintainable. This Court is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India.

The application is accordingly dismissed.

The dismissal of this petition shall not prejudice the right of the petitioners to seek redressal of their grievances, if permissible in law.

(V. Nath, J)

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