

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.1708 of 2007

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Vinay Kumar & Ors

.... Petitioner/s

Versus

Droupadi Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Singh No-1
		Mr. D.K. Sinha
		Mr. Abhinay Raj
		Mr. Pramod Kumar Sinah
For the Respondent/s	:	Mr.
		Mr. Bholu Bhai Desai

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

49 23-11-2017

Heard learned counsel for the petitioners.

No one appears on behalf of the opposite party no. 1 to 9 on repeated call.

The remaining opposite parties have not been noticed as the service of notices upon them has already been waived by this Court vide order dated 03.08.2016.

The present Revision petition has been preferred against the order dated 03.07.2007 passed by the learned 2nd Sub-Judge Bhojpur at Ara by which and whereunder he rejected the calculation of decretal amount given on behalf of the petitioner.

The brief fact which lies to file this revision petition is that the Title suit no. 62 of 1964 was fought between the parties.



The aforesaid suit had been brought for redemption of mortgage as well as realization of means profit. The aforesaid suit was decreed and accordingly, the petitioners, who were defendants in the aforesaid suit, were directed to handover possession of mortgaged lands to the plaintiffs as well as other defendants of the aforesaid suit. So far as means profit is concerned, the concerned court started a proceeding to determine the amount of means profit. In the aforesaid proceeding an Advocate Commissioner was appointed and the Advocate Commissioner having calculated the amount filed his calculation report. It is pertinent to note here that Execution Case no. 04 of 1999 was filed and in the aforesaid Execution Case, the petitioners gave their own calculation regarding the amount of means profit and, thereafter, the learned court below passed the impugned order dated 03.07.2007.

It is an admitted position that Title suit no. 62 of 1964 was decreed on 22.06.1967. It is also an admitted position that in the proceeding, the Advocate Commissioner submitted calculation chart regarding means profit and vide order dated 30.06.1973 the learned Sub-Judge, Ara directed that means profit as ascertained by the Pleader Commissioner at the rate of Rs 2724.70/- shall be paid with interest @ Rs. 6% per annum and accordingly, the learned Sub-Judge Ara ordered that the report as



well as chart prepared by the Pleader Commissioner shall be part of the final decree. It is also an admitted position that Execution Case No. 4 of 1999 has been filed but there is dispute between the parties regarding the calculation amount of means profit

However, in my view, this Civil Revision petition can be disposed of directing the execution court to ensure the execution of decree passed in Title suit no 62 of 1964 including the final decree dated 30.06.1973 in its letter and spirit without any variation from the aforesaid decree.

Therefore, with the aforesaid observation, this Civil Revision petition stands disposed of and, accordingly, the impugned order is modified to the above stated extent.

(Hemant Kumar Srivastava, J)

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