

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1343 of 2015
IN
Civil Writ Jurisdiction Case No. 8577 of 2014**

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1. Arati Devi Wife of Shri Bhuwali Prasad daughter of Late Shyamdeo Prasad resident of Village- Parshurampur, P.O & Police Station- Amnour, District- Saran (Chapra) at present resident of Village Hematpur, P.O & Police Station- Dighwara, District- Saran (Chapra)

2. Puja Devi Wife of Shri Santosh Prasad, daughter of Late Shyamdeo Prasad resident of Village Khusiyarpur, P.O- Sonepur, Police Station Dariyarpur, District- Saran (Chapra) at present resident of village- Hamatpur, P.O & Police Station- Dighwara, District- Saran (Chapra)

3. Rekha Devi Wife of Shri Munna Prasad, Daughter of late Shyamdeo Prasad resident of village Ghogharaha, P.O & Police Station- Amnour, District- Saran, (Chapra), at present resident of Amnour, District- Sarn (Chapra), at present resident of Village Hematpur, P.O & Police Station- Dighwara, District- Saran (Chapra)

.... Appellant/s

Versus

1. Basanti Devi Wife of late Raj Bihari Singh

2. Gopaljee Singh son of Late Mahabir Singh

3. Manoj Kumar Son of Late Raj Bihari Singh

4. Madhuri Devi daughter of Late Raj Bihari Singh

5. Alok Singh (Minor) Son of Late Raj Bihari Singh, through Basanti Devi mother guardian and next friend.

6. Seema Kumari (Minor) daughter of Late Raj Bihari Singh, through Basanti Devi Mother guardian and next friend.

7. Krishna Bihari Singh Son of Mahabir Singh

8. Kanchan Prasad Son of late Sheo Prasad Singh

9. Chinta Devi daughter of late Sheo Prasad Singh

10. Chanda Devi daughter of late Sheo Prasad Singh

11. Sheo Sundar Prasad Son of late Sheo Prasad

12. Punita Prasad(Minor) son of Late Shyam Deo Prasad and under the guardianship of his uncle Kanchan Prasad All are resident of Village Hematpur, P.O & Police Station Dighwara, District- Saran (Chapra)

13. Rukmani Devi wife of Shri Chandrika Singh

14. Tara Devi daughter of late Sheo Prasad Singh@late Sheo Prasad

15. Raj Bihari Prasad Son of late Sheo Prasad Singh@Sheo Prasad 13 to 15 are residents of Village Hematpur, P. O & Police Station- Dighwara, District- Saran (Chapra)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Shabbir Ahmed
Mr. Shambhu Sharan Singh

For the Respondent/s : Mr. Jitendra Kishore Verma
Mr Anjani Kumar
Mr Abhishek Anand

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**



ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 11-01-2017

Heard learned counsel for the appellants both on the limitation matter as well as merit of the appeal. Under the circumstances explained in paragraphs 4, 5 and 6, delay of 89 days is condoned.

Appeal is directed against the order dated 3.12.2014, which has been passed by a learned Single Judge in CWJC No.8577 of 2014. The writ application was filed under Article 227 of the Constitution of India by the so-called interveners, who were petitioners before the learned Single Judge, against the order dated 4.4.2014 passed by learned Munsif 2nd, Saran at Chapra in Execution Case No.5 of 2005 whereby the petitioners' application under Order 1 Rule 10 of the CPC has been rejected. These appellants claim themselves to be the grand daughters and the rightful legal heirs. They have raised objections and they have sought impleadment at the stage of execution in a suit of 1984, which was Suit No.42 of 1984. The suit has been decreed years ago. The execution has been dragging on for one reason or the other even after the matter was contested right up till the Hon'ble Apex Court and the so-called forefathers of the present appellants had lost the legal battle.

After having gone through the order of the learned Single



Judge, we do not find any legal infirmity nor any illegality has been pointed out decisively by the counsel representing the appellants. From the narration of event and facts, it is evident that it is a desperate effort made on behalf of these appellants to again delay and deny the right and the fruits of the decree, which has already accrued to the respondents of the case as the suit was decreed in the year 2004 and the execution was also dragged on for more than 10 years.

The appeal, therefore, has no merit. In fact, the Court was inclined to impose suitable cost for such frivolous litigation, especially when it lacks bona fide but on an earnest plea made by the counsel for the appellants, the Court takes an indulgent view with an observation that they have legal remedy which they have already initiated by filing a separate suit. Let the said suit be pursued but that will not come in the way of finality of the execution case. The court below is directed to ensure that the execution case reaches its finality at the earliest.

Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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