

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.769 of 2016**

=====

Naresh Prasad Chaturvedi & Anr

.... Appellant/s

Versus

Meena Devi & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Rao Kundan Kumar Karmvir

For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

- 3 17-02-2017 **1.** Heard the learned counsel for the petitioner as well as learned counsel for the respondent.
- 2.** The learned counsel for the petitioner submitted that the order IX Rule 13 application has been filed by Meena Devi but against whom the execution case has not been filed by the decree holder petitioner and, therefore, the Court below could not have stayed the further proceeding of the execution case during the pendency of Misc. case No.4 of 2012.
- 3.** On the other hand, the learned counsel for the respondent submitted that the husband of respondent No.1 has already died and, therefore, she has filed the application under Order IX Rule 13 CPC for setting aside the ex.-parte decree. According to the learned counsel, the ex.-parte decree has been obtained against a dead person, that is, husband of the respondent



No.1 and the decree holder is trying to execute the decree against the husband.

4. From perusal of the address given in the cause title of this Civil Misc. application, it appears that the petitioner himself has described Meena Devi as wife of Late Mahendra Yadav. Annexure '1' is the execution application from which it is apparent that the name of the husband of the respondent No.1 is still there and no substitution has been made.

5. In view of the above facts and circumstances of the case, I do not find any ground for interfering with the impugned order in exercise of supervisory jurisdiction, particularly when the petitioner is trying to execute decree against dead persons.

6. Thus, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

U		T	
---	--	---	--

