

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2077 of 2017

=====

Tilak Yadav @ Tilak Choudhary

.... Appellant/s

Versus

1. Yogendra Pandit
2. Madan Pandit
3. Manohar Pandit

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Gautam Kumar Yadav

For the Respondent/s : Mr. Sanjay Kumar

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 08-12-2017

Heard both sides.

The petitioner has filed this Civil Misc. petition against the order dated 22.02.2017 passed in Execution case No. 236 of 2016 by which decree of delivery of possession was issued.

The learned counsel for the petitioner submits that petitioner/ defendant did not appear in the suit but the plaintiff got somebody appeared in the suit by impersonating the petitioner. The petitioner is in possession of the house. The petitioner filed a petition under Order 21 Rule 97 of the Code of Civil Procedure that fraudulent decree has been obtained and the court below may be directed to dispose of the petition filed by the petitioner under Order 21 Rule 97 of the C.P.C.

Mr. Sanjay Kumar, the learned counsel for the respondents, submits that the petitioner earlier filed First Appeal



No. 228 of 2014 but in view of raising of pecuniary appellate jurisdiction of the District Judge to Rs. 10 lacs the memo of appeal along with court fee was ordered to be returned to the appellant to present the same before the appropriate court having jurisdiction but the learned counsel for the petitioner also denied the fact of presenting appeal ever by the petitioner and it is submitted that his signature is forged.

Taking into consideration the facts aforesaid, I dispose of this Civil Misc. petition with a direction to the executing court to firstly dispose of the petition filed by the petitioner under Order 21 Rule 97 read with section 151 of the Code of Civil Procedure and till the disposal of the petition further proceeding in Execution case No. 263 of 2016 including delivery of possession is stayed.

This Civil Misc. petition is disposed of, accordingly.

(Prabhat Kumar Jha, J)

BKS/-

U			
---	--	--	--

