

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 34 of 2017**

1. Imran Malik S/o Late Soabuddin, Aged About 63 Years Caste Musalman, R/o College Road, Jashpur, District Jashpur, Chhattisgarh(Judgment Debtor)

---- Applicant**Versus**

Masihujama Khan (Now Died) Through Lrs:

1. Fasihujama Khan S/o Late Masihujama Khan, Aged About 62 Years R/o Village Jashpur, Tahsil And District Jashpur, Chhattisgarh
2. Rafiquehujama Khan S/o Late Masihujama Khan, Aged About 60 Years R/o Village Jashpur, Tahsil And District Jashpur, Chhattisgarh
3. Raisujama Khan S/o Late Masihujama Khan, Aged About 52 Years R/o Village Jashpur, Tahsil And District Jashpur, Chhattisgarh
4. Anisujama Khan S/o Late Masihujama Khan, Aged About 50 Years R/o Village Jashpur, Tahsil And District Jashpur, Chhattisgarh
5. Ishrat Ara D/o Late Masihujama Khan, Aged About 52 Years R/o Village Aurangabad (Bihar), Through Brother Respondent No.1 Fasihujama Khan, R/o Village Jashpur, Tahsil And District Jashpur, Chhattisgarh
6. Musharrat Ara D/o Late Masihujama Khan, W/o Sabbir Khan, Aged About 48 Years, R/o Kaji Mohalla, Nearly Urdu Medium School, Aurangabad, Tahsil & District Aurangabad (Bihar)
7. Najhat Ara D/o Late Masihujama Khan, Aged About 46 Years W/o Ishtiyak Khan, R/o Village & Post Near Poultry Form Sohagpur, Shahdol, Tahsil And District Shahdol (M.P.)(Decree Holders)

----Non-applicants

For Applicant:

Mr. R.N. Jha, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10.03.2017**

1. The challenge in the present Revision Petition is the order dated 17.02.2017 and also the order dated 22.12.2016

passed by the Civil Judge, Class-I Jashpur in Execution Case No. 2/2016 whereby the objections raised by the Applicant were rejected.

2. The grievance of the Applicant is that the Non-Applicants in the present case, the decree holders had initiated execution proceeding before the Court below which has been registered as Execution Case No. 2/2016 against the judgment and decree dated 04.02.2016 passed by the District Judge, Jashpur in Civil Appeal No. 12-A/2015. According to the Applicant herein the Judgment debtor had initiated an application for staying of the execution proceeding in the light of the interim order passed by the High Court in Second Appeal No. 140/2016. The said application was rejected by the Court below vide the impugned order dated 22.12.2016.
3. The Court below rejected the objection raised by the judgment debtor on the ground that the stay in execution of the case being sought for is an order which has been passed in the Civil Appeal No. 12-A/2015 which was allowed in favour of the decree holder on 04.02.2016 and that the said order dated 04.02.2016 has been affirmed by High Court in Second Appeal No. 134/2016 and thereafter the matter travelled to the Supreme Court also, where the leave to appeal, preferred by the present Applicant, the judgment debtor has been rejected thereby the judgment and decree dated 04.02.2016 stands affirmed. The Court below found that so far as the objection showing an interim order referred by the Judgment debtor in Second Appeal No. 140/2016, the same is arising out of a different suit.
4. Further a perusal of the interim order in Second Appeal No.

140/2016 is in respect of possession part of decree. Thus it clearly implies that except for the possession part remaining part of the decree would be executable. Even as of now the execution proceeding which have been initiated does not show any threat at this stage of dispossession to the present Applicant except for getting the decree dated 04.02.2016 executed.

5. In the light of the judgment and decree dated 04.02.2016 having been affirmed uptill the Supreme Court, this Court does not find any good reason for staying the proceedings of the execution case.
6. So far as the apprehension of the present Applicant is concerned in the light of the interim order passed by this High Court in Second Appeal No. 140/2016 on 17.03.2016 the same cannot be dispossessed under any circumstances without a leave of the High Court in the said Second Appeal. But that does not mean the remaining part of the decree would also have to be stayed from being executed.
7. With the aforesaid observation the present Revision Petition stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE