

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.41 of 2012

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Dr. Satindra Nath Tiwari son of Late Siddha Nath Tiwari, resident of village-+ P.O. Dalsagar, P.S. Buxar (Industrial), Dist.-Buxar

.... Petitioner/s

Versus

1.Dhananjay Choubey S/o Late Barmeshwar Nath Choubey
2.Radhika Mishra W/o Yogesh Mishra D/o Late Barmeshwar Nath Choubey
3.Most. Geeta Devi wife of Late Satyadeo Choubey
4.Deepak Kumar Choubey
5.Ashish Kumar Choubey
6.Alok Kumar Choubey, all major sons of Late Satyadeo Choubey, under guardianship of their mother Most. Geeta Devi W/o Late Satyadeo Choubey
7.Anamika Kumar, major daughter of Late Satyadeo Choubey, under guardianship of their mother Most. Geeta Devi W/o Late Satyadeo Choubey
8.Parjoti Devi W/o Late Triveni Lal
9.Sriniwas Singh S/o Lalita Prasad Singh, all from Sl. No.1 to 9 are resident of village-+ P.O. Dalsagar, P.S. Buxar (Industrial), Dist.-Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prasoon Sinha with
Mr. Radha Mohan Pandey, Advocates
For the Respondent/s : Mr. Sanjay Kumar Verma with
Mr. Abhishek Kumar and
Mr. Ajit Kumar Singh, Advocates.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

26 27-06-2018 Heard both sides.

The petitioner has filed this Civil Revision against the order dated 25.06.2011 passed in Misc. Case No.26 of 2001 by learned Munsif-II, Buxar by which the objection of the petitioner for setting aside the delivery of possession has been dismissed.

Learned counsel for the petitioner submits that in Execution Case No.7/83 the petitioner filed a petition informing the court that his father died but the court ordered that the petition



was not pressed. In absence of the petitioner, delivery of possession was affected. The delivery of possession was given to the Nazir who delegated his power to Nayab Nazir. No execution is prescribed under Order 21 Rule 35 of the C.P.C. has been followed and the delivery of possession was fraudulently affected. It is submitted that the petitioner filed the petition but the learned Munsif did not consider the facts in true prospective and dismissed the same.

Learned counsel for the Opposite Parties submits that Siddha Nath Tiwary and Dr. Satindra Nath Tiwary are same person. From perusal of the order dated 24.03.2001 it would appear that the judgment debtor Satindra Nath Tiwary was present therefore there is no question of substitution of the father of the petitioner. Siddha Nath Tiwary @ Dr. Satindra Nath Tiwary remained present on each and every date. The delivery of possession was affected after following all the procedure of law and there is no irregularity and illegality.

Having heard both sides and on perusal of the record, I find that Satindra Nath Tiwary was present along with his lawyer on 24.03.2001 and prayed for time for taking further steps in execution case. The court issued delivery of possession and therefore I find no reason to interfere to order impugned.



Accordingly, this Civil Revision petition is dismissed as devoid of merit.

(Prabhat Kumar Jha, J)

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