

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.653 of 2022

1. Kusum Devi Wife of Sri Shiv Shankar Sah Resident of Mohalla - Nai Bazar, P.O. - Chhapra, P.S. - Bhagwan Bazar, District - Saran.
2. Sheo Shankar Prasad @ Shio Shankar Prasad @ Sheo Shankar Sah Son of Late Laxman Sah, Resident of Mohalla - Nai Bazar, P.O. - Chhapra, P.S. - Bhagwan Bazar, District - Saran.

... .. Petitioner/s

Versus

1. Krishna Prasad @ Krishna Sah Son of Late Laxman Sah, resident of Mohalla - Nai Bazar, P.O.- Chhapra, P.S. - Bhagwan Bazar, District - Saran - 834301.
2. Pawan Kumar Sah Son of Sri Krishna Prasad Sah, Resident of Mohalla - Nai Bazar, P.O. - Chhapra, P.S. - Bhagwan Bazar, District - Saran - 841301.
3. Ranjeet Kumar Sah, Son of Sri Krishna Prasad Sah, Resident of Mohalla - Nai Bazar, P.O. - Chhapra, P.S. - Bhagwan Bazar, District - Saran - 841301.
4. Dharmendra Kumar, Son of Sri Krishna Prasad Sah, Resident of Mohalla - Nai Bazar, P.O. - Chhapra, P.S. - Bhagwan Bazar, District - Saran - 841301.
5. Vikash Kumar, Son of Sri Krishna Prasad Sah, Resident of Mohalla - Nai Bazar, P.O. - Chhapra, P.S. - Bhagwan Bazar, District - Saran - 841301.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Abinash Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 07-12-2022 Heard learned Counsel for the petitioners.

The petitioners are aggrieved by the order, dated 16.04.2022, passed in Execution Case No. 02 of 2017, by which learned Sub Judge-I, Chapra (Executing Court) has refused to vacate the stay of further proceeding in Execution Case No. 02 of 2017.

Misc. Case No. 04 of 2018 was filed by the respondent 2nd Set before the Executing Court, under Order XXI



Rule 97 of the Code of Civil Procedure, claiming their right upon the suit property. The suit was decreed in the absence of the respondent 2nd Set and accordingly, the respondent 2nd Set herein filed miscellaneous case under Order XXI Rule 97 of the Code of Civil Procedure. The learned Executing Court, before whom the miscellaneous case has been filed after taking into consideration the fact that the miscellaneous case is pending for consideration, has stayed the execution of the decree filed by the petitioners, who are decree holders.

Taking into consideration the fact that the bona fide petition, under Order XXI Rule 97 of the Code of Civil Procedure is under consideration before the learned Executing Court and if the stay is vacated, serious prejudice shall be caused to the petitioners of miscellaneous case, i.e. respondent 2nd Set herein.

In view of the aforesaid discussion, I do not find any reason to interfere with the impugned order.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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