

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1393 of 2019

1. Sita Ram Sah S/o Late Chulhai Sah Resident of Mohalla- Chak Nizam (Belaghat), P.s.- L.N.M.U., Darbhanga, P.o.- Lalbagh, District- Darbhanga
2. Vijay Kumar Sah S/o Sita Ram Sah Resident of Mohalla- Chak Nizam (Belaghat), P.s.- L.N.M.U., Darbhanga, P.o.- Lalbagh, District- Darbhanga

... .. Petitioner/s

Versus

Dr. Md. Azam Hussain S/o Late Md. Tahir Hussain Ansari Resident of Mohalla- Shibdara Alafganj, P.s.- L.N.M.U., Darbhanga, P.o.- Lalbagh, District- Darbhanga

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chittaranjan Sinha, Sr. Advocate Ms. Surya Nilambari, Advocate Mr. Alok Kumar Sinha, Advocate
For the Respondent/s	:	Mr. S.S. Duivedi, Sr. Advocate Mr. Parth Gaurav, Advocate Mr. Praveer, Advocate Mr. Rajiv S. Duivedi, Advocate Mr. Ashutosh Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 12-07-2022 Heard Mr. Chittaranjan Sinha, learned senior counsel

for the petitioners and Mr. S.S. Duivedi, learned senior counsel

appearing for the Respondent.

2. The present application has been filed by the petitioners who are appellants/defendants in the learned lower appellate court in Eviction Appeal No. 03 of 2016 which has been filed by the petitioners being aggrieved by the Judgment and decree of eviction dated 12.05.2016.

3. The petitioners are aggrieved by the order dated 4.5.2019 passed by the learned District Judge, Darbhanga, in



Eviction Appeal No. 03 of 2016 whereby the petition filed by them under Order XLI Rule 5 CPC for the stay of execution proceeding during pendency of the appeal has been rejected. The suit premises has been described in Schedule-I of the plaint which consists of two rooms in Holding No. 883, Ward No. I, situated at Muhalla, Tej Bishunpur alias Gehumi, Achal Sadar, Dist – Darbhanga.

4. The petitioners preferred an appeal against the Judgment and decree of Eviction dated 12.05.2016 bearing Eviction Appeal No. 03 of 2016 and the Respondent filed the Execution Case No. 05 of 2016.

5. During course of argument, both the parties have agreed that a direction may be issued to the learned lower appellate court to dispose the appeal on its own merit within a maximum period of one year and till then the further proceeding in Execution Case No. 05 of 2016 may be stayed.

6. In view of the submission and with consent of the parties, the impugned order dated 04.05.2019 passed by the Learned District Judge, Darbhanga, is set aside and learned lower appellate court is directed to dispose the Eviction Appeal No. 03 of 2016 within a maximum period of one year.

7. The further proceeding in Execution Case No. 05



of 2016 pending before the learned Munsif 1st, Darbhanga, shall remain stayed for a period of one year from the date of receipt/production of a copy of this order.

8. With aforesaid observation and direction, this application stands disposed of.

(Anil Kumar Sinha, J)

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