

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.183 of 2023**

=====

Anamika Kumari, aged about 38 years, Female, Wife of Anupam Saroj,
Resident of 78, Badi Dargah, P.S.- Lakhisarai, District- Lakhisarai, presently
posted as Circle Officer, Dehri, Sasaram, District- Rohtas.

... .. Petitioner/s

Versus

1. Binda Kuer, aged about..... years, female Wife of Late Dineshar Singh.
2. Kumar Surya Kant, aged about 17 years, Male.
3. Pratima Kumari, aged about 15 years, Female.
4. Priti Kumari, aged about 13 years, Female.
5. Priyanka Kumari, aged about 11 years, Female.

Claimant (2) is minor Son whereas (3) to (5) are minor daughters of
deceased namely Dineshwar Singh.

All resident of village- Ghanibigha, P.O.- Badihan (Shankarpur), P.S.-
Indrapuri, District- Rohtas.

..... Decree Holder/Respondent 1st Set

6. Sri Kamlesh Kumar @ Kamlesh Jaiswal, Son of Sri Rajendra Prasad
Jaisawal, Resident of Mohalla- Dhantolia, Ward No. 11, Dehri, P.O. and
P.S.- Dehri, District- Rohtas.

... .. Judgment Debtors / Respondent/s 2nd Set

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava, Advocate

For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER**

3 20-03-2023 Heard learned counsel for the petitioner.

2. The instant Civil Miscellaneous application has
been filed for quashing the orders dated 21.01.2023 and
25.01.2023 passed in Execution Case No. 01 of 2009 C.I.S. No.



41 of 2013 by the learned Additional District Judge-IV, Rohtas at Sasaram whereby the learned Court below has imposed a cost of Rs. 5,000/- upon the petitioner.

3. Learned counsel for the petitioner submits that petitioner is posted as Circle Officer, Dehri, Sasaram, District – Rohtas. The judgment holder had filed Execution Case No. 01/2009 for execution of interim award of Rs. 50,000/- as compensation against judgment debtor in M.V. claim Case No. 64 / 2006. The said case was taken upon by learned Additional District Judge – IV, Rohtas at Sasaram on 19.12.2022 and the said Court directed the Collector, Rohtas to recover the amount of Rs. 50,000/- from judgment debtor like land revenue. The Collector directed the petitioner being Circle Officer, Dehri to get it comply and in compliance of the said order of the Court the petitioner issued letter dated 04.01.2023 contained in Memo No. 11 to judgment debtor for compliance of the said order before 19.01.2023. The petitioner was on two days leave on 20.01.2023 and 21.01.2023. The aforesaid execution case was taken by the learned Court below on 21.01.2023 in which the judgment debtor appeared and prayed for time to comply. The Court in view of the non-compliance of the order imposed a cost of Rs. 5,000/- on the petitioner and issued warrant of arrest and



date of hearing was fixed on 25.01.2023. The petitioner appeared in the Court and sought time for compliance of the order, then warrant of arrest against her was recalled. On 25.01.2023 the judgment debtor paid Rs. 50,000/- vide cheque in favour of judgment debtor and the Court disposed of the execution case but the case kept pending for compliance of order dated 21.01.2023 for payment of cost against the petitioner.

4. Learned counsel for the petitioner submits that there was no negligence on the part of the petitioner for compliance of order dated 19.12.2022 as the petitioner took steps for its compliance and issued notice to judgment debtor and there was no laches on her part. Further he has submitted that the judgment debtor already complied the order on 25.01.2023 accordingly imposing the cost on petitioner is not called for and liable to be set aside in the facts and circumstances of the case.

5. Having heard the learned counsel for the petitioner and on perusal of the record, it appears that the petitioner had already taken steps for compliance of the order dated 19.12.2022 accordingly it cannot be said that the petitioner was negligent or disobeyed the order of the Court. It also appeared



that the execution petition has already been disposed of in view of the payment done by the judgment debtor in favour of the decree holder.

6. In view of the facts and circumstances of the case and in the interest of justice, this Civil Miscellaneous application is allowed and the order with respect to the cost imposed on petitioner vide impugned order dated 21.01.2023 and subsequent order dated 25.01.2023 for its compliance is hereby set aside.

(Sunil Dutta Mishra, J)

Anand Kr.

U			
---	--	--	--

