

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.327 of 2018**

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Satya Devi, wife of Anand Bihari Dwivedi @ Anand Bihari Dubey, Resident of Mohalla- Baswariya, Ward No. 30, P.S.- Bettiah Town, District- West Champaran.

... .. Petitioner/s

Versus

1. Lalmani Tiwari, son of Late Ramjeet Tiwari, Resident of Mohalla- Ujjain Tola, P.S.- Bettiah Town, District- West Champaran.
2. Most Shila Devi, wife of Late Brahmchari Singh.
3. Rani, D/o Late Brahmchari Singh.
4. Soni @ Ragini, D/o Late Brahmchari Singh, All Residents of Mohalla- Ujjain Tola, P.S.- Bettiah Town, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binaykant Mani Tripathi, Advocate Mr. Ajay Kumar Mishra, Advocate Mr. Vikash Kumar Jha, Advocate
For the Respondent No. 1:	:	Mr. Shiv Kumar Dwivedy, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

15 18-04-2023 Heard learned counsel for the parties.

This Civil Miscellaneous application has been filed under Article 227 of the Constitution of India against the order dated 05.01.2018 passed by learned Munsif, Bettiah in Execution Case No. 5 of 2012 / C.I.S. No. 197 / 2014 rejecting the petition dated 15.09.2017 filed by the petitioner for stay of delivery of possession of the suit premises.

Learned counsel for the petitioner submits that the petitioner has already filed a petition under Order 9 Rule 13



CPC being Miscellaneous Case No. 11 of 2013 to set aside the ex parte judgment and decree and accordingly in execution proceeding the delivery of possession of suit premises is liable to be stayed but the learned Court below rejected the petition of the petitioner before concerned Court being.

Learned counsel for the respondents submits that the said Miscellaneous case had already been dismissed vide order dated 14.09.2018. Learned counsel for the petitioner submits that restoration petition for the same is pending before the concerned Court.

During the course of argument learned counsel for the respondents submits that in execution case delivery of possession of the suit premises has already been executed. Accordingly, he submits that this Civil Miscellaneous application has become infructuous.

Learned counsel for the petitioner conceded the said fact that this Civil Miscellaneous application has become infructuous.

Learned counsel for the parties submit to dispose of this Civil Miscellaneous application as infructuous due to aforesaid reason.

Considering the aforesaid facts and circumstances of



the case and the submission of the learned counsel for the parties, this Civil Miscellaneous Application is disposed of as infructuous.

(Sunil Dutta Mishra, J)

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