

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1103 of 2017**

Ataur Rahman, son of Late Abdul Aziz, Resident of Village - Sumera @ Afzalpur Anchal and Police Station - Kurhani, District – Muzaffarpur.

... .. Petitioner/s

Versus

1. Md. Shafi Alam @ Safi Alam
2. Md. Motiur Rahman @ Sri Matiur Rahman
3. Rakibur Rahman @ Sri Rakibul Rahman
All sons of Late Abdul Azizi All residents of village - Sumera @ Afzalpur Anchal and Police Station - Kurhani, District - Muzaffarpur.
4. Md. Murtuza
5. Md. Sajid @ Md. Sazed Both sons of Late Md. Qudus
6. Md. Jawed @ Javed minor
7. Md. Mumtaz minor both minor sons of Late Md. Qudus under care and custody of their mother and natural guardian Bibi K All residents of village - Sumera @ Afzalpur Anchal and Police Station - Kurhani, District - Muzaffarpur.
8. Sakeela Khatoon daughter of Late Md. Qudus & wife of Md. Akil resident of village - Baghauni, P.O. Pusa Road, Police Station - Pusa, District - Samastipur.
9. Mufarra Khatoon @ Mofarra Khatoon daughter of Late Md. Qudus & wife of Zamfeer Ahmad Resident of village - Banjaria, P.O. and P.S. Motipur, District Muzaffarpur.
10. Jamila Khatoon @ Zamila Khatoon daughter of Late Md. Qudus and wife of Md. Israil resident of village - Pakari Pakohi, P.O. Patahi, Police Station - Karza, District - Muzaffarpur.
11. Mustaqueema Khatoon @ Mustkima Khatoon daughter of Late Md. Qudus & wife of Naqui Ahmad @ Naji Ahmad resident of village - Morwain Tajpur, P.O. and P.S. Morwain Tajpur, District - Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raghib Ahsan, Sr. Advocate Mr. Wasi Akhtar, Advocate
For the Respondent/s	:	Mr.

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 13-02-2024

Heard learned senior counsel appearing on behalf of
the petitioner.

2. The petitioner has filed the present petition for



setting aside the order dated 08.03.2017 passed in Execution Case No.01 of 2013 by the learned Sub Judge-IV, Muzaffarpur whereby the execution proceeding was adjourned to 07.04.2017 for bringing the stay order.

3. The learned senior counsel appearing on behalf of the petitioner submits that after passing of the order dated 08.03.2017, the matter has not proceeded an inch further and still routine orders are being passed for bringing the stay order and the Execution Case No.01 of 2013 has been kept pending. The learned senior counsel further submits that one interlocutory application bearing I.A.No.2091 of 2014 was filed under Order 41 Rule 5 of the Code of Civil Procedure in First Appeal No.85/2013 for staying the further proceeding in Execution Case No.01 of 2003. However, no order has been passed in I.A.No.2091 of 2014, but the learned executing court, without any prayer on behalf of the judgment-debtor requesting to adjourn the further proceeding, has kept on adjourning the matter for bringing the stay order against the established norms and provisions of law. The learned senior counsel, thus, submits that learned Sub Judge-IV, Muzaffarpur may be directed to dispose of the Execution Case No.01/2013 in expeditious manner.

4. Having perused the record and considered the submission made on behalf of the petitioner, it is evident that the



petitioner has challenged the order dated 08.03.2017 by which the proceeding was adjourned to 07.04.2017 for bringing the stay order. If there has been no stay in the matter, the learned executing court has adjourned the matter erroneously and keeping the matter pending for such a long period in execution proceeding is beyond comprehension and shows the negligent approach of the learned executing court in the matter.

5. Accordingly, the learned Sub-Judge-IV, Muzaffarpur is directed to dispose of the aforesaid Execution Case No.01 of 2013 on its merits and in accordance with law within a period of four month from the date of receipt/production of a copy of this order, without adjourning the matter unnecessarily since it is a case of 2013.

6. The parties are also directed to cooperate in the matter for its early disposal without seeking unnecessary adjournment.

7. With the aforementioned observations and directions, the instant petition stands disposed of.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2024
Transmission Date	NA

