

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.162 of 2024

Devidin Prasad, son of late Antu Sah @ Antu Ram, Resident of Mohalla-Chawar Takiya, P.O. and Police Station- Sasaram, District-Rohtas.

... .. Petitioner/s

Versus

1. Ajay Kumar, Son of Late Prem Chand Prasad Kashyap, Resident of Mohalla-Karan Sarai, P.O and Police Station- Sasaram, District-Rohtas.
2. Most. Kusum Kunwar, W/o Late Raghav Chand Prasad, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.
3. Kapil Kumar Gupta, S/o Late Raghav Chand Prasad, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.
4. Sandeep Kumar Gupta, S/o Late Raghav Chand Prasad, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.
5. Vikash Kumar Gupta, S/o Late Raghav Chand Prasad, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.
6. Most. Sarita Kunwar, W/o Late Shankar Prasad Gupta, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.
7. Deepak Kumar Gupta, S/o Late Shankar Prasad Gupta, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.
8. Prakash Kumar Gupta, S/o Late Shankar Prasad, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.
9. Aakash Kumar Gupta, S/o Late Shankar Prasad Gupta, resident of Mohalla-Chawar Takiya, P.O and Police Station-Sasaram, District-Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate Mr. Rajeev Kumar, Advocate Mr. Abhishek, Advocate
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 10-04-2024

Heard learned counsel for the petitioner on the point of admission and I intend to dispose of the present petition at the stage of admission itself.

02. The petitioner has filed the instant petition for



issuance of direction to the learned Munsif-1st, Sasaram at Rohtas to conclude the proceeding of Execution Case No. 06 of 2011 which has been filed for execution of eviction decree passed in Eviction Case No. 3 of 1998 against the respondent 1st set.

03. Learned counsel appearing on behalf of the petitioner submits that against the decree in eviction suit, the respondent 1st set filed Eviction Appeal No. 56 of 2011 which was dismissed and thereafter respondent no.1 approached this Court vide Second Appeal No. 11 of 2019 and this Court dismissed the said appeal and still after passage of more than 12 years, the execution case has not been concluded and disposed of by the learned executing court to enforce eviction decree. Learned counsel further submits that the petitioner has come before this Court with simple prayer for expeditious disposal of Execution Case No. 06 of 2011. Thus, the learned counsel submits that the learned trial court may be directed to hear the matter without giving unnecessary adjournments and dispose of the case as early as possible.

04. The position of the litigants before the civil courts leaves much to desire. No doubt, the courts are overburdened including civil courts. But that could not be any reason for grant



of unnecessary adjournments and the Courts must be on alert against evil designs of unscrupulous litigants who use the process of law and the proceedings before the civil courts to their undue advantage.

05. It is very unfortunate that the execution case is pending for such a long period when both the first appeal and the second appeal have been decided in favour of the decree holder. The reality is that pure civil matters take a long time to be decided, and regrettably it does not end with a decision, as execution of a decree is an entirely new phase in the long life of a civil litigation. The inordinate delay, which is universally caused throughout India in the execution of a decree, has been a cause of concern of the Courts. In the case of ***Rahul S. Shah vs. Jinendra Kumar Gandhi and Others*** reported in ***(2021) 6 SCC 418***, the Hon'ble Supreme Court has observed that a remedy which is provided for preventing injustice in the Civil Procedure Code is in fact being misused to cause injustice by preventing timely implementation of orders and execution of decrees. Then, it has observed as under:-

“23.....The execution proceedings which are supposed to be a handmaid of justice and subserve the cause of justice are, in effect, becoming tools which are being easily misused to obstruct justice.”



06. The right to speedy trial cannot be denied to the litigants, whether they are plaintiffs or defendants. Since it is a matter of 1998 and in the interest of litigants as well as a matter of public policy, it is very much needed that such civil suits are taken up and dispose of with promptitude. The only prayer of the petitioner is for expeditious disposal of the case pending before the learned trial court, I do not think there is any need to issue notice to the other-side and the present matter could be disposed of straightaway.

07. Under the aforesaid facts and circumstances, the learned trial court is directed to expedite and dispose of the Execution Case No. 06 of 2011 within a period of six months from the date of receipt/production of a copy of this order.

08. Accordingly, the present petition stands disposed of with the aforesaid observation.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.04.2024
Transmission Date	NA

