

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.572 of 2024**

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Birendra Kumar S/o Ganga Ray @ Sri Ganga Prasad Yadav Resident of
Village- Mahua Singh Rai, P.S. Mahua, District Vaishali.

... .. Petitioner

Versus

Awadesh Kumar S/o Sri Haribansh Narayan Rai Resident of Village - Mahua
Singh Rai, P.S Mahua, District Vaishali.

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Vijay Anand, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 25-06-2024

The matter has been taken up on mentioning being
made on behalf of the petitioner.

02. 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.

03. The petitioner has filed the instant petition under
Article 227 of the Constitution of India for expeditious disposal of
Execution Case No. 23 of 2017, pending before the learned Sub
Judge-I, Vaishali at Hajipur, which has been filed for execution of
the judgment dated 31.05.2017 and decree dated 12.06.2017,
respectively, passed by the learned Sub Judge-I, Vaishali at
Hajipur in Title Suit No. 92 of 2010 whereby and whereunder the
respondent was directed to execute the sale deed in favour of the
petitioner after receipt of Rs. 30,000/- within three months,



otherwise the possession would be transferred through process of the court.

04. Learned counsel for the petitioner submits that the after filing the execution case, the judgment debtor appeared and filed a petition on 23.06.2018 to the effect that he has moved before the learned first appellate court against the the judgment dated 31.05.2017 and decree dated 12.06.2017, respectively. Since then the learned executing court has not taken any steps for execution of the aforesaid judgment and decree passed in favour of the decree holder/petitioner despite the fact that there has been no stay order passed by the learned first appellate court. Learned counsel has also relied on the decision of Hon'ble Supreme Court in the cases of ***Rahul S. Shah vs. Jinendra Kumar Gandhi and Others***, reported in ***(2021) 6 SCC 418*** and ***Pradeep Mehra Vs. Hari Jivan J Jethwa***, reported in ***(2023) 14 SCR 123***, wherein the Hon'ble Supreme Court has issued certain guidelines for executing court to adhere and has also directed that the execution proceeding must be concluded within six months. Learned counsel further submits that the petitioner has come before this Court with simple prayer for expeditious disposal of Execution Case No. 23 of 2017. 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.



05. 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.

06. It is very unfortunate that the execution case is pending for such a long period. 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** (supra), 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.”

07. The right to speedy trial cannot be denied to the



litigants, whether they are plaintiffs or defendants. Since it is a matter of 2017 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 disposed of with promptitude. The limited 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.

08. Under the aforesaid facts and circumstances, the learned trial court is directed to take up the Execution Case No. 23 of 2017 in all earnest and try to dispose of it at the earliest, keeping in back of mind the guidelines issued by the Hon’ble Apex Court in the case of *Rahul S. Shah* (supra).

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

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.06.2024
Transmission Date	NA

