

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.567 of 2024

Kushi Lal Yadav Son of Bauaji Yadav Resident of Village-Raja Kharwar, P.S.- Sakatpur, District-Darbhangha.

... .. Petitioner/s

Versus

1. Laxmi Mandal Son of Late Keshi Mandal, Resident of Village-Raja Kharwar, P.S.-Sakatpur, District-Darbhangha.
2. Katim Lal Yadav, Son of Late Soti Yadav, Resident of Village-Raja Kharwar, P.O.-Rajakkarwar, P.S.-Sakatpur, District-Darbhangha.
3. Mahesh Yadav, Son of Late Soti Yadav, Resident of Village-Raja Kharwar, P.O.-Rajakkarwar, P.S.-Sakatpur, District-Darbhangha.
4. Laxman Yadav, Son of Late Ganesh Yadav, Resident of Village-Raja Kharwar, P.O.-Rajakkarwar, P.S.-Sakatpur, District-Darbhangha.
5. Lal Yadav, Son of Late Ganesh Yadav, Resident of Village-Raja Kharwar, P.O.-Rajakkarwar, P.S.-Sakatpur, District-Darbhangha.
6. Vinod Yadav, Son of Late Jiwachh Yadav, Resident of Village-Raja Kharwar, P.O.-Rajakkarwar, P.S.-Sakatpur, District-Darbhangha.
7. Subodh Yadav, Son of Late Jiwachh Yadav, Resident of Village-Raja Kharwar, P.O.-Rajakkarwar, P.S.-Sakatpur, District-Darbhangha.
8. Lal Kumar Yadav, Son of Late Jiwachh Yadav, Resident of Village-Raja Kharwar, P.O.-Rajakkarwar, P.S.-Sakatpur, District-Darbhangha.
9. Ram Lochan Mandal, Son of Late K.C. Mandal, Resident of Village-Rajakharwar, P.S. Sakatpur, District-Darbhangha.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Durga Nand Jha, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-08-2024 The matter has been listed on mentioning being made on behalf of the petitioner.

2. Heard learned counsel for the petitioner.

3. The present petition has been filed under Article 227 of the Constitution of India against the order dated



27.03.2024 passed in Execution Case No. 02 of 2020, arising out of Title Suit No. 318 of 2013.

4. Learned counsel for the petitioner submits that the petitioner was not a party in Title Suit No. 318 of 2013 but while executing the decree, the house of the petitioner is being demolished. Learned counsel further submits that the decree was passed for 2 katha 6 dhurs of land of Khesra No. 942 and 943 whereas the decree is being sought to be executed on 2 katha 18 dhurs 14 kanwa of land. Learned counsel further submits that the executing court cannot go behind the decree and cannot execute the decree over more than suit land. Hence, the impugned order is not sustainable and the same be set aside.

5. Perused the records.

6. From perusal of record I find that in the petition before the learned executing court, the petitioner has nowhere taken this plea that decree was being sought to be executed over and above the suit land. Further, the petitioner has failed to bring forth and establish about his right, title, interest and possession over the suit land with supportive pleading and document and this fact has also taken notice by the learned executing court. Petitioner has even failed to mention the description of his own land. By filing a completely vague



application the petitioner sought stay on the execution proceeding and in my opinion, the same was rightly rejected by the learned executing court. Learned executing court has also noted that if the petitioner was aggrieved in any manner and wants to object to the executing proceeding he should have file a petition under Order 21 Rule 99 of the Code of Civil Procedure. Therefore, I do not find any infirmity in the impugned order and hence, the same is affirmed.

7. Finding no merit in the present petition, the same is dismissed.

8. The petitioner is at liberty to take recourse of law under appropriate proceeding before the learned executing court, if he so desires.

(Arun Kumar Jha, J)

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