

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2519 of 2023

In
CIVIL MISCELLANEOUS JURISDICTION No.1393 of 2019

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1. Sita Ram Sah Son of Late Chulhai Sah Resident of Mohalla- Chak Nizam (Belaghat), P.S.-L.N.M.U. Darbhanga, P.O.-Lalbagh, District-Darbhangha.
 2. Vijay Kumar Sah Son of Sita Ram Sah Resident of Mohalla- Chak Nizam (Belaghat), P.S.-L.N.M.U. Darbhanga, P.O.-Lalbagh, District-Darbhangha.

... .. Petitioner/s

Versus

Dr. Md. Azam Hussain Son of Late Tahir Hussain Ansari Resident of Mohalla-Shibdera Alafganj, P.S.-L.N.M.U. Darbhanga, P.O.-Lalbagh, District-Darbhangha.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Alok Kumar Sinha
For the Opposite Party/s :	Mr.Ashutosh Kumar Pandey
For the Patna High Court:	Mr. Satyabir Bharti
	Ms. Kanupriya
	Mr. Abhishek Anand

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 5 17-05-2024 1. Heard learned Counsel for the parties concerned.
2. The petitioner has filed the present application for modification of the order, dated 12.07.2022, passed in Civil Misc. No. 1393 of 2019, to the extent that the stay of execution proceeding granted by the said order be extended as stay was for a period of one year. Learned District Appellate Court was directed to dispose the Eviction Appeal No. 03 of 2016 within a maximum period of one year.
3. Learned Counsel for the petitioner submits that despite



the direction of this Court, the eviction appeal was not disposed within one year, as such, the executing court proceeded in the matter and issued delivery of possession for execution of the decree passed in Eviction Suit No. 06 of 2010.

4. This Court, vide its order, dated 23.02.2024, called for a report from the Court of learned Additional District Judge-VII, Darbhanga, as to why the eviction appeal has not been disposed within one year in compliance of the order, dated 12.07.2022, passed in Civil Misc. No. 1393 of 2019.
5. Since no report was submitted by learned Additional District Judge-VII, Darbhanga, therefore another order was passed on 20.03.2024, issuing express reminder to the learned Additional District Judge-VII, Darbhanga, to show cause as to why the previous order, dated 23.02.2024, was not complied.
6. Again, when the matter was taken up on 26.04.2024, neither the report nor the show cause filed by the learned Additional District Judge-VII, Darbhanga, was there on the record. Accordingly, this Court, vide its order, dated 26.04.2024, issued contempt notice to learned Additional



District Judge-VII, Darbhanga.

7. Mr. Satyabir Bharti, learned Counsel for the Patna High Court, files a show cause in pursuance of the order, dated 26.04.2024.
8. Sri Upendra Kumar, learned learned Additional District Judge-VII, Darbhanga, is also present before this Court, pursuant to the letter issued to him by this Court, vide Memo No. 34694, dated 01.05.2024.
9. Learned Counsel for the Patna High Court submits that in compliance of the direction of this Court, dated 23.02.2024, learned Additional District Judge-VII, Darbhanga, vide letter no. 15/2024, dated 20.03.2024, sent a report through Nazarat, Darbhanga judgeship on 20.03.2024. The report was delivered in this Court on 23.03.2024. However, the report was not attached in the present case; rather, the same was attached with the disposed civil miscellaneous case, on the basis of the forwarding letter of the learned District Judge, Darbhanga.
10. In compliance of the order, dated 20.03.2024, the deponent-learned Additional District Judge-VII, Darbhanga, sent a show cause as well as the report on



01.04.2024. This time also, on the basis of the forwarding letter of the learned District Judge, Darbhanga, the report as well as the show cause were attached with the disposed civil miscellaneous case.

- 11. Pursuant to the contempt notice, the deponent- learned Additional District Judge-VII, Darbhanga, has submitted a detailed explanation on 08.05.2024 and has payed for unconditional apology from this Court.
- 12. Learned Counsel further submits that the argument in Eviction Appeal No. 03 of 2016 has been concluded and the same has been posted for judgment on 20.05.2024.
- 13. Since hearing of eviction appeal is concluded and it is fixed for judgment, no order, in this modification application, is required to be passed.
- 14. The show cause of the learned Additional District Judge-VII, Darbhanga, is accepted.
- 15. This application is, accordingly, disposed.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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