

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1163 of 2023

Braj Kishore Kumar, Son of Late Radhey Shyam Sharma, Resident of Mohalla- Station Road, Khusrupur in the Town and District of Patna.

... .. Petitioner/s

Versus

1. Mithesh Kumar, Son of Sri Baikunath Nath Mishra, Resident of Village-Khusrupur Station Road, P.S. and P.O.- Khusrupur in the Town and District- Patna.
2. Anil Kumar, Son of Alakhdeo Prasad, Resident of Station Road, Khusrupur, P.S.- Khusrupur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. J.S. Arora, Sr. Advocate
		Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 29-07-2024 Learned senior counsel for the petitioner submits that the present petition has been filed by the petitioner seeking following relief(s):-

“(I) For commanding the learned Execution Munsif to execute the decree of eviction dated 30.06.2017 passed in Eviction Suit No. 9 of 2008, pending in Execution Case No. 2 of 2018 and to deliver possession of the suit premises to the petitioner within the time, as may be fixed by this Hon’ble Court.

(II) For setting aside the order dated 08.09.2023, passed in Miscellaneous Case No. 4 of 2019, by the learned Additional Munsif, Patna City arising out of Execution Case No. 2 of 2018, whereby and whereunder the further proceeding of said Execution Case has been stayed, till the



disposal of the said Miscellaneous Case.

(III) Also for any other appropriate reliefs to which the petitioner is found to be entitled in the eye of law or in the facts and circumstances of the case.”

2. Learned senior counsel submits that relief no.2 has become infructuous as the order dated 08.09.2023 passed in Miscellaneous Case No. 4 of 2019 has been recalled by the learned Additional Munsif, Patna City and, hence, the said relief is not being pressed.

3. Learned senior counsel further submits that petitioner has approached this Court with limited prayer for early disposal of Execution Case No. 2 of 2018 giving a time frame. Learned senior counsel further submits that about six years have elapsed but decree of Eviction Suit No. 9 of 2008 and delivery of possession are yet to be handed over. 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.

4. 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.

5. 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 regretfully 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.

6. The right to speedy trial cannot be denied to the litigants, whether they are plaintiffs or defendants. 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.

7. Under the aforesaid facts and circumstances, the learned trial court is directed to expedite and dispose of the Execution Case No. 02 of 2018 in accordance with the guidelines prescribed in the case of *Rahul S. Shah* (supra).

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

(Arun Kumar Jha, J)

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