

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1235 of 2023

1. Brij Raj Kishore Prasad Son of Late Krishna Deo Prasad, Resident of Kachahariya Kothi, R.K. Avenue (Nala Road), P.S. Kadamkuan, District-Patna, Pin Code- 800004.
2. Vijiyant @ Kumar Vijiyant, Son of Brij Raj Kishore Prasad, Resident of Kachahariya Kothi, R.K. Avenue (Nala Road), P.S. Kadamkuan, District-Patna, Pin Code- 800004.
3. Smt. Bibha Kumari, Wife of Brij Raj Kishore Prasad, Resident of Kachahariya Kothi, R.K. Avenue (Nala Road), P.S. Kadamkuan, District-Patna, Pin Code- 800004.

... .. Petitioner/s

Versus

1. Manish Saree Emporium, a partnership firm having its office at H/O Mr. Brij Raj Kishore Prasad, Kachahariya Kothi, R.K Avenue (Nala Road), P.S. - Kadamkuan, District- Patna, Pin Code- 800004 through its partners.
2. Ashok Agarwal, Son of Sri Prem Chand Agarwal, Resident of Flat No. 5A and B, Devalay Apartment, Bari Path, P.S. Pirbahore, P.O. Bankipur, District- Patna.
3. Monika Agrawal, Wife of Sri Ashok Agarwal, Resident of Flat No. 5A and B, Devalay Apartment, Bari Path, P.S. Pirbahore, P.O. Bankipur, District-Patna.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 15-04-2024 Heard learned senior counsel for the petitioner.

2. The instant petition has been filed seeking direction to the learned Sub Judge-IX, Patna to dispose of the Execution Case No. 739 of 2023 within certain stipulated time to be fixed by this Court. In sum and substance, the present petition has been filed for early disposal of Execution Case No. 739 of 2023.

3. Learned senior counsel appearing on behalf of the

petitioners submits that the learned Executing Court has not been taking up the matter in right earnest. The petitioners /plaintiffs filed Eviction Suit No. 61 of 2019 against the respondents/defendants. Since the respondents failed to comply the order passed under Section 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, their defence was struck off. Thereafter, decree was passed in the Eviction Suit No. 61 of 2019 and for execution of the decree in Execution Case No. 739 of 2023 has been filed. More than Rs.4.5 crores of rent has become outstanding and the respondents are not paying a single farthing since April, 2019. No superior Court has passed any order staying the operation of decree and as the defence of the respondents has already been struck off, there has been no occasion for not executing the decree.

4. Learned senior counsel further submits that granting adjournments on mere saying of the judgment debtors/respondents is unwarranted and learned senior counsel referred to the decision of the Hon'ble Supreme Court in the case of ***Rahul S. Shah Vs. Jinendra Kumar Gandhi and Ors.*** reported in ***AIR 2021 SC 2061*** to stress the point that learned executing Court is under an obligation to dispose of the execution case filed by the petitioners within a mandatory

period of six months.

6. Since the petitioners have approached this Court with prayer for early disposal of the Execution Case No. 739 of 2023 pending before the learned Sub Judge-IX, Patna, I do not think there is any need to issue notice to the other side since speedy disposal of execution case is a matter of public policy as well and it is in the common interest.

7. Hence, the learned Sub-Judge-IX, Patna is directed to expedite the Execution Case No. 739 of 2023 and dispose of the same, preferably within six months, in terms of guidelines provided in the judgment of the Hon’ble Supreme Court in the case of *Rahul S. Shah (Supra)*.

8. With the aforesaid observations/directions the present petition stands disposed of.

(Arun Kumar Jha, J)

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