

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1525 of 2019

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Ramchandra Roy @ Ram Chandra Rai @ Ramchandra Rajbhar S/o Late
Pardeshi Roy @ Pardeshi Rajbhar Resident of Village- Lakhan Jhari, Rajbhar
Tola, P.O.- Gulab Bag, P.s.- Sadar, Distt.- Purnea

... .. Petitioner/s

Versus

1. Md. Majlis Alam @ Majlis Alam S/o Rojit Uddin Resident of Village- Naya
Tola, Lakhan Jhari, P.s.- Sadar, Distt.- Purnia
2. Gopal Pathak @ Gopaljee Pathak S/o Gauri Shankar Pathak Resident of
Village- Sadar Tola, Gulab Bag, P.s.- Sadar, Distt.- Purnia

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Singh, Advocate
For the Respondent/s	:	Md. Fazle Karim, Advocate
		Mr. Waliur Rahman, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

9 30-10-2025 The present petition has filed for setting aside the order dated 31.07.2019, passed in Eviction Execution No.01/14(B) and CIS No.64/14 arising out of Eviction Suit No.5 of 2009, passed by learned Additional Munsif-IV, Purnea on the petition dated 22.01.2016 filed by this petitioner under Order 21, Rule 97 C.P.C. and for grant of any other suitable relief/reliefs for which petitioner is found entitled in the eye of law.

2. Heard both sides.

3. Learned counsel for the petitioner submits that he has filed a petition before the Trial Court under Order 21, Rule 97 C.P.C. in which the learned Trial Court has held in the concluding paragraphs as follows:



“After hearing the rival contention and submission of the Ld. Counsels of both sides and on perusal of case record along with the aforesaid petitions it is transpired that the instant petition has been filed by petitioner Ramchandra Rai to raise objection to the ongoing execution proceedings by claiming right on the land and ensuing premises regarding which decree has been passed in Eviction Suit No-5/2009. On perusal of case record this court finds that the petitioner has raised its objection without adducing documents in support of its objection which cast doubt on its objection. Apart from this nothing has been brought on record to show that the petitioner is in possession of the alleged suit premises. Moreover, no explanation has been given about the failure of the petitioner to pray the court for his intervention in the Eviction Suit No-5/2009 by filing petition in that regard in time. Moreover, the execution court cannot go behind the decree but has to execute the same promptly along with deciding genuine objections supported with genuine documents if any which is absent in this case. So, in fact and circumstances of the case this court is of opinion that the instant petition dated 22/1/2016 may have been filed on the instigation of the Judgement Debtor as it is devoid of any documentary support and has the tendency to linger on the instant execution proceedings. Therefore, the petition dated 22/1/2016 filed by the petitioner Ramchandra Rai is hereby disposed of as rejected in the light of aforesaid observation.”

4. Learned counsel for the respondents submits that petition under Order 21, Rule 97 C.P.C. is not maintainable. He also controverted the facts that the vendor of the respondents, namely, Narayan Rai has not executed any sale deed during his life time.



5. From the impugned order, it transpires that no supportive document has been produced on behalf of the petitioner in the learned Trial Court while the learned counsel appearing on behalf of the petitioner submits that all together four documents were filed before the court. Photo copies of the certified copies of the list have also been annexed in his petition which shows that all together four xerox copies of documents have been filed. This submission is quite contrary to the contentions raised by learned counsel for the respondents.

6. Keeping in view the aforesaid facts, the case is remanded before the Trial Court to examine the rival claims on the basis of documents filed on behalf of the petitioner and decide the matter afresh at the earliest, preferably within a period of six months.

7. Accordingly, the present petition stands disposed of.

8. Both the parties are directed to co-operate in the said proceeding/trial.

(S. B. Pd. Singh, J)

Sanjay/-

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