

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1349 of 2024**

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Manager Ram Son of Late Somaru Ram, resident of Mohalla-Nai Bazar,
Buxar, Ward No. 5, P.S.-Buxar, District-Buxar (Bihar).

... .. Petitioner/s

Versus

1. Tarun Kumar son of Late Anirudh Ram, resident of Nai Bazar, Buxar, P.S.-
Buxar, District-Buxar (Bihar).
2. Shri Navin Kumar, son of Late Anirudh Ram, resident of Nai Bazar, Buxar,
P.S.-Buxar, District-Buxar (Bihar).
3. Samar Kumar, son of Late Anirudh Ram, resident of Nai Bazar, Buxar, P.S.-
Buxar, District-Buxar (Bihar).
4. Shri Kamal Ranjan son of Late Anirudh Ram, resident of Nai Bazar, Buxar,
P.S.-Buxar, District-Buxar (Bihar).
5. Mosmatt. Rajwanshi Devi, Wife of Late Anirudh Ram, resident of Nai
Bazar, Buxar, P.S.-Buxar, District-Buxar (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Tiwary, Advocate
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 05-02-2025

Record has been taken up on mentioning being made
on behalf of the petitioner.

2. Heard learned counsel for the petitioner.

3. The petitioner is aggrieved by the order dated
13.09.2024 passed by learned Munsif 1st, Buxar in Execution



Case No. 03 of 2013, whereby and whereunder the petition for staying the execution of the judgment and decree dated 25.02.2013 and 07.03.2023, respectively passed by learned Munsif- IInd, Baxur in Title Suit No. 12 of 2007 till outcome of the Title Appeal No. 17 of 2013 pending in the court of learned Additional District Judge-I, Buxar has been rejected and the learned executing court issued direction to the office for issuance of D.P.

4. Learned counsel for the petitioner submits that the petitioner has filed Title Appeal No. 17 of 2013 which was dismissed on 16.03.2024 for want of pairvi and thereafter, petitioner/judgment-debtor has filed Misc. Case No. 21 of 2024 for restoration of Title Appeal No. 17 of 2013 but no order has been passed due to the fact that the court of learned Additional District Judge-I, Buxar has been vacant. Learned counsel further submits that the judgment-debtor/petitioner filed a petition before the learned Munsif with a prayer to stay the proceeding in Execution Case No. 03 of 2013 till outcome of Title Appeal No. 17 of 2013 but the executing court has not considered the prayer and rejected the same.

5. Perused the record.

6. From perusal of the record I do not find any



infirmity in the impugned order as the learned executing court is duty bound to execute the judgment and decree before it and unless the petitioner who is judgment-debtor get relief from any superior court for stay of the execution proceeding, there is nothing the executing court could do. Moreover, it is apparent that the petitioner dragged his title appeal for about 10 years and thereafter allowed to be dismissed in default on 16.03.2024 and thereafter, miscellaneous case has been filed which is pending. Evidently, there is no stay in the matter by any of the superior courts and the petitioner has rushed to this Court without any substitution reason. The lackadaisical approach of the petitioner is evident from the dismissal of his appeal in default and it appears the petitioner wants to delay the proceeding before the executing court and present civil miscellaneous case also appears to be a step in this regard. The facts of the present case do not warrant exercise of power under Article 227 of the Constitution by this Court as I do not find any error of jurisdiction of the learned subordinate court.

7. For the aforesaid reason, I do not find any merit in the present petition which appears to be frivolous and the same is dismissed with cost of Rs.10,000/- to be deposited by



the petitioner in the coffers of Patna High Court Legal Services
Committee within a month of passing of the order.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2025
Transmission Date	NA

