

(2009) 02 PAT CK 0149

Patna High Court

Case No: C.R. No. 124 of 2009

Suresh Kumar Gupta @ Suresh  
Gupta and Another

APPELLANT

Vs

Rabindra Rai and Others

RESPONDENT

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**Date of Decision:** Feb. 3, 2009**Citation:** (2009) 2 PLJR 417**Hon'ble Judges:** Ravi Ranjan, J**Bench:** Single Bench**Final Decision:** Dismissed

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### Judgement

@JUDGMENTTAG-ORDER

Dr. Ravi Ranjan, J.

Heard Mr. Manu Shankar Mishra, learned counsel for the petitioners and Mr. V. Nath, learned counsel appearing for Opposite Parties No. 1 to 4. Judgment debtors-petitioners are aggrieved by the order dated 12.1.2009, passed by Sub-Judge-VII, Vaishali at Hajipur in Execution Case No. 1 of 2004, whereby their petition for adjournment of the case, on the ground that the judgment debtors-petitioners have to move before the Supreme Court against the order/judgment of this Court dated 16.12.2008 passed in Second Appeal No. 392 of 2008 has been rejected.

2. Learned counsel for the petitioners submits that a case has already been filed before the Supreme Court and a supplementary affidavit has been filed, in paragraph 2 whereof certain case diary No. has also been mentioned in this regard. Learned counsel further contends that further proceedings in the execution case be stayed so that he could avail of his remedies before the Supreme Court.

3. Learned counsel appearing on behalf of the opposite parties 1st set contends that a suit was decreed in favour of opposite parties 1st set and thereafter the first appeal was filed by the judgment debtors-petitioners and the execution case was

also filed in the year 2004. Further proceedings in the aforesaid execution case, according to him, was stayed till the disposal of the first appeal concerned, which ultimately was dismissed and the judgment debtors-petitioners preferred Second Appeal No. 392/2008 before this Court, which also stood dismissed on 16.12.2008 itself. His further contention is that the ground taken for stay of execution proceedings is without any foundation as the judgment debtors-petitioners are free to move before the Supreme Court and make suitable prayer therein itself specially to when the petitioners themselves have stated in their supplementary affidavit that a case has already been filed before the Apex Court.

4. The Executing Court while rejecting the prayer of the judgment debtors for stay of the execution proceedings has discussed all the aforesaid facts and come to the conclusion that the ground taken by the judgment debtors is not proper and thus has rejected the prayer.

5. In view of above, I do not find any jurisdictional error or illegality in the impugned order dated 12.1.2009 warranting interference by this Court in its civil revisional jurisdiction. The revision application is, accordingly, dismissed.