

(2022) 05 JH CK 0035
In the Jharkhand High Court
Case No : Second Appeal No. 17 Of 2022

Gunjesh Tiwari

APPELLANT

Vs

Manju Tiwari

RESPONDENT

Date of Decision : 27-05-2022

Acts Referred:

Citation : (2022) 05 JH CK 0035

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : Atanu Banerjee

Judgement

Rongon Mukhopadhyay, J

Heard Mr. Atanu Banerjee, learned counsel for the appellant. This application has been preferred by the appellant for maintaining status quo till hearing of Second Appeal No. 17 of 2022.

It has been submitted by the learned counsel for the appellant that against the judgement and decree dated 10.02.2017 the appellant had preferred a first appeal before this Court being First Appeal No. 92 of 2017 which was admitted on 10.08.2017. Subsequently an interlocutory application was filed being I.A. No. 8621 of 2017 under Order 41 Rule 5 of the C.P.C. praying for stay of the execution proceeding in Execution Case No. 32 of 2017.

This Court vide order dated 22.02.2018 has stayed the proceedings in Execution Case No. 32 of 2017. Subsequently in view of the amendment made in Assam, Agra Bengal Civil Courts Act an order was passed in F.A. No. 92 of 2017 on 20.06.2019 and since the pecuniary jurisdiction of the District Judge has been raised to Rs. 25 lacs, the lower court record was sent back to the office of the Principal District and Sessions Judge, Giridih. Consequent to the same Civil Appeal No. 11 of 2020 was registered in the court of Principal District Judge, Giridih and the said appeal was finally dismissed vide judgement dated 22.01.2022 which is impugned to Second Appeal No. 17 of 2022 and followed by

a decree drawn up on 10.02.2022.

Mr. Banerjee, learned counsel for the appellant further submits that in Execution Case No. 32 of 2017 an order has been passed on 23.05.2022 for issuance of delivering of possession. Learned counsel further submits that the suit property is a residential house which is in possession of the present appellant.

Issue notice to the sole respondent with respect to Interlocutory application No. 2389 of 2022 for which requisites etc. under register cover with A/D as well as ordinary process be filed within a week.

Let this matter be listed under the appropriate heading after notice is served upon the sole respondent.

Till further orders, status quo shall be maintained.