

**IN THE COURT OF CIVIL JUDGE (Jr. Div.), DUMRAON**  
**Present:- Prateek Mishra, Civil Judge (Jr. Div.), Dumraon.**  
**Execution Case No. - 03/2003**

<b>Date of Order</b>	<b>Order with initials of the Court</b>	<b>Remarks</b>
<u>28.07.2025</u>	<p>This case is listed today for order on petition dated 18.01.2025 by judgment debtors Satyendra Pathak &amp; Vijendra Pathak. In this petition judgment debtors have prayed that process of execution was done wrongfully, on paper only and not in reality. It is <i>inter-alia</i> stated that Misc. case no. 38/2004 filed by father of petitioner against <i>ex-parte</i> decree which has been executed wrongfully. Petition for staying execution was filed on 17.08.2024 which was pending for hearing &amp; order. Meanwhile, format for execution issued on 17.10.2024. Decree was executed on 10.10.2024 without appointment of Nazir. Execution process was table drafted and no actual execution was taken place. In fact, decree was not executed on land but table drafted execution report processed by Nazir, Buxar. Possession of Chandra Shekhar Pathak, Narendra Dev Pathak &amp; Rameshwer Pathak is still on land under dispute. Along with them petitioners are also having possession jointly. Lastly, prayer has been made for dismissal of execution process.</p> <p>In reply dated 05.04.2025, decree holder has <i>inter-alia</i> submitted that petition is not maintainable and filed to linger the execution. Nazir, Buxar has completed execution process following due procedure established in that regard. Lastly, prayer has been made for dismissal with heavy cost.</p> <p>Heard the parties and perused the records. On perusal of order sheet, it is noted that execution has been filed in 2003 for decree passed in Title Suit - 95/1982. On 03.04.2023 requisition has been issued to Nazir, Buxar for execution. Report has been receive from Nazir, Buxar on 17.08.2024 that order for execution is not clear and on said date Office was directed to re-issue format with clear direction. On even date, petitioner has filed petition for staying the execution process. Hearing was pending. Meanwhile, format for</p>	

execution was issued to Nazir, Buxar, in terms of order dated 17.08.2024. Nazir, Buxar has submitted execution report on 02.11.2024 which is received on 16.11.2024.

On perusal of petition, it is noted that process for execution was issued on 03.04.2023 vide DB No. 28/03.04.2023. But since then no petition for staying of execution has been filed. Petition <sup>for stay</sup> has been filed on 17.08.2024 after order for issuance of afresh format for execution. Further, it is also noted that petitioners have not specified the provision under which this petition has been filed. At the same time, it has also not specified what specific procedural fault has been committed by Nazir, Buxar and in what way petitioners were prejudiced. At the same time, the petitioners have claimed that actual execution has not taken place. This Court is of the view that in such circumstances the aggrieved party ought to be the decree holder and not judgment debtor.

In view of the above, this Court is of the view that petition is devoid of any merit and liable to be dismissed.

List on 15-10-2025 for hearing on confirmation of execution.

(Prateek Mishra)  
Civil Judge (Jr. Div.), Dumraon

