

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.189 of 2013

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1. Awadhesh Kumar Mahto S/o Laxmi Mahto, resident of village , Behea Gaon, P.S. Behea, District Bhojpur.
2. Dinesh Kumar Pintu Mahto S/o Laxmi Mahto, resident of village , Behea Gaon, P.S. Behea, District Bhojpur.

.... Appellant/s

Versus

1. Lalmunim Devi W/o Rambharosa Mahto, resident of village - Kerari, P.S. Ara Mufassil, District Bhojpur.
2. Laxmi Mahto S/o Late Jagmohan Mahto, resident of village - Behea Gaon, P.S. Behea, District Bhojpur.

.... Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-09-2015

No one appears on behalf the appellant. Even yesterday when the case was called out, no one was present on behalf of appellants, but the Court recorded that if no one will appear to press this appeal on the next date, the Court will pass necessary order.

In the present case, appellants have challenged the order dated 13th February 2013 passed by learned Sub-Judge, Ara in T.S. No. 568 of 2010 whereby and whereunder the court below has rejected the injunction petition.

The suit has been filed for declaration of sale deed dated 17.6.2010 is a void.

As has been claimed that the plaintiff is the son of

respondent No. 2, he has sold certain portion of land of his share in favour of defendant No. 1 illegally. It has been said that the father of the plaintiff became unsound mind, was under treatment of doctor for three years as well as his personal life was not so good, as he was in habit of taking liquor, taking advantage of the situation, defendant-respondent No. 1 got the sale deed registered of the suit property mentioned in Schedule-K without making payment of consideration amount.

It appears from the order that the plaintiff himself has sold certain land which was fallen in his share. The father of appellant has sold his share of property to the respondent for construction of house.

In such view of the matter, it is an admitted fact that the father, respondent No. 2 sold the property to defendant No. 1, but the allegation of transfer of land without paying consideration amount, will be adjudicated in the suit which does not constitute a prima facie case in favour of the appellant. In such view of the matter, this Court does not find any error in the impugned order.

Accordingly, this appeal is dismissed.

(Shivaji Pandey, J)

Mahesh/-

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