

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.434 of 2013

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1. MOSMAT DHANESHWARI KUNWAR, WIFE OF LATE BALESHWAR KUMAR SINHA, RESIDENT OF MUHALLA- SIDHNATH GHAT, POST- ANCHAL, P.S. AND DISTRICT- BUXAR.

2. SAMIR KUMAR, SON OF LATE BALESHWAR KUMAR SINHA, RESIDENT OF MUHALLA- SIDHNATH GHAT, POST- ANCHAL, P.S. AND DISTRICT- BUXAR

.... PLAINTIFFS/APPELLANTS

VERSUS

1. PRABHAT KUMAR SINHA, SON OF LATE SURAJ PRASAD SINHA, RESIDENT OF SAROJ NAGAR, B/11, HAZARI PAHAR, ARYAMAN BUILDER, NAGPUR, MAHARASHTRA.

2. JAYA DAS, WIFE OF LATE ARUN KUMAR DAS, RESIDENT OF BANK COLONY, SITARAM NAGAR, BAZAR SAMITI ROAD, NAI BAZAR, P.O. + P.S. AND DISTRICT- BUXAR.

3. ABHIJIT, SON OF LATE ARUN KUMAR DAS, RESIDENT OF BANK COLONY, SITARAM NAGAR, BAZAR SAMITI ROAD, NAI BAZAR, P.O. + P.S. AND DISTRICT- BUXAR.

.... DEFENDANTS/RESPONDENTS

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Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 06-04-2015

Heard learned counsel for the appellants and learned counsel for the respondents.

2. This miscellaneous appeal has been filed, under Order XLIII Rule 1 of the Code of Civil Procedure, by the plaintiffs/appellants against the order dated 08.05.2013 passed in Title Suit No. 447 of 2009 by the court of Sub-Judge-III, Buxar, whereunder the Sub-Judge-III, Buxar, rejected the application of the plaintiffs/appellants filed, under Order XXXIX read with Section 151 of the Code of Civil Procedure, to restrain defendant no. 2, Late Arun Kumar Das, husband and father of respondent nos. 2 and 3 to raise new

construction and install hand pump on the disputed land.

It appears that the plaintiffs/appellants filed suit for cancellation of sale deed dated 27.03.2009 executed by the defendant/respondent no. 1 in favour of Arun Kumar Das, husband and father of respondent nos. 2 and 3. After filing the suit, the plaintiffs/appellants filed an application under Order XXXIX read with Section 151 of the Code of Civil Procedure, to restrain defendant no. 2, Late Arun Kumar Das, husband and son of respondent nos. 2 and 3 to raise new construction and install hand pump on the disputed land.

On hearing the parties, learned Sub-Judge-III, Buxar, rejected the application through impugned order dated 08.05.2013, under Order XXXIX read with Section 151 of the Code of Civil Procedure, arriving at conclusion that defendant no. 2 has purchased the land in dispute and the name has already been mutated in favour of defendant no. 2, as such, prima facie case is not in favour of the plaintiffs.

I find no infirmity and illegality in the impugned order for interference with the same. Accordingly, this miscellaneous appeal is dismissed.

Bhardwaj/-

(Rajendra Kumar Mishra, J)

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