

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.606 of 2013

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1. Lav Kumar Mishra Son of Nathuni Mishra
2. Kush Kumar Mishra Son of Nathuni Mishra Both Resident of Village-
Gurwalia, Bshwas Shiwala Tola, P.S. Manuapul, District West Champaran

.... Appellant/s

Versus

1. ASH MAHAMID ANSARI Son of Late Junab Ansari
2. Rustam Ansari Son of Late Junab Ansari
3. Naresh Yadav Son of Rameshwar Yadav All R/o Village Gurwalia
Bishwas, P.S. Manuapaul, District West Champaran
4. Kamlesh Ram Son of Late Ramkeshwar Ram R/o Village -Suuri, P.S.
Rasulpur, District Saran (Chapra)
5. Shankar Yadav Son of Late Ram Chandra Yadav R/o Village Miskar Toli
Chuhari, P.S. Chapatia, District West Champaran

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Binay Kant Mani Tripathi, Adv.
Mr. Ajay Kumar Mishra, Adv.

For the Respondent/s : M/s. Md. Waliur Raman, Nishant Kumar
Sinha and Ramkishun Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 07-08-2015 Heard counsel for the appellants and the respondents.

In this case, appellants are challenging the order dated 25th July 2013 passed in T.S.No. 296 of 2012 whereby the petition for grant of injunction has been rejected.

As per the appellants, they purchased the land on 25th January 1940 from Yadu Raut, grand father of defendant 2nd set and further purchased land measuring 3 katha 10 dhurs in auction sale belonging to Sheo Charan Ahir in 1953 in the name of Yogendra Mishra, uncle of plaintiffs for which Jamabandi is



running and the rent is being paid. The defendant 1st set recently obtained the impugned sale-deed dated 20th March 2012 with respect to the suit land from defendant no.5 Shankar Yadav, grand son of Yadu Raut. It has been claimed by the appellant that Shankar Yadav whose grand father has already sold the land to the appellant does not have right to sell again the same to the respondent nos. 1 and 2 and it has also been claimed that the sale-deed executed by Shankar Yadav does not give any right, title over the land in question. Claim has been made that they are in possession of the land. Relief in suit has been made for declaration of title and confirmation of possession.

The defendant nos. 1 and 2 before the court below have taken a plea that the story of purchase of land from Yadu Raut is completely incorrect because Yadu Raut had already died before the date of registration of the sale deed which is apparently clear from the gift deed executed in the year 1926 in favour of Most Etwaria by her mother where it has been mentioned that Yadu Raut was dead leads to inference that on the date of execution of the sale-deed Yadu Raut was dead and, as such, the story propounded by the appellants does not have leg to stand whereas they have purchased the land from Shankar Yadav grand son of Yaddu Raut and got the same mutated and are getting rent

receipts regularly.

From the record it appears that the appellants did not produce the sale deed of the land land. If the appellants had purchased the land from Yadu Raut , they should have produced the sale deed whereas the other side are showing the documents. In such view of t he matter, the appellants have failed to make out prima facie case in their favour and this Court is of the view that the court below has not committed an error in refusing to grant injunction. This petition is accordingly dismissed. However, the appellants are given liberty to produce the documents before the trial court whatsoever they intend to prove their right, title and possession over the land in dispute.

(Shivaji Pandey, J)

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