

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.500 of 2014

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Smt. Meena Devi W/o Sri Shambhu Prasad D/o Sri Krit Singh, resident of village- Chhatna Tola, Pipra, P.S.- Phulwari (Now- Parsa Bazar), District- Patna and presently residing at Village- Hasanpur, Beur, Patna and now residing at Mayur Vihar Colony, Mourya Path, Khajpura, P.S.- Shastri Nagar, District- Patna.

.... Appellant/s

Versus

1. Sri Krit Singh S/o Late Indramani Singh, resident of village- Chhatna Tola- Pipra, P.S.- Parsa Bazar, District- Patna.
2. Smt. Imriti Devi W/o Sri Krit Singh, resident of village- Chhatna Tola- Pipra, P.S.- Parsa Bazar, District- Patna and presently residing at Mayur Vihar Colony, Mourya Path, Khajpura, P.S.- Shastri Nagar, District- Patna.
3. Smt. Kalawati Devi W/o Nirmal Singh, resident of village- Chhatna, P.S.- Parsa Bazar, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pramod Kumar Singh
For the Respondent/s : Mr. Devendra Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 14-09-2015

Heard learned counsel for the appellant.

In this case, the appellant is challenging the order dated 1st July 2014 passed in Title Partition Suit No. 584 of 2013.

It appears that the appellant had filed the partition suit in which he claimed 1/4th share in the joint family property. As it appears from the record that Plaintiff and Defendant no. 3 are daughters of Defendant nos. 1 and 2. The plaintiff has also share in the property to the extent of 1/4th share. As per claim of plaintiff, each party is entitled to 1/4th share in the joint family property.

Allegation has been made that defendant nos. 1 & 3 are alienating the suit property causing irreparable injury to the appellant.

It is well known principle of law that possession of one co-sharer is possession of all co-sharers is presumption in joint family.

There is no dispute that all the parties have 1/4th share in the property, maximum plaintiff may claim protection and preservation of 1/4th share of property, for the rest, other co-sharer cannot be forbidden to utilise the property in his own manner.

The defendants, of course, cannot sell out the property of 1/4th share of the appellant, they can utilise their own share of property in their own manner. Any alienation of property will be subject to final adjudication in the suit. In terms of Section 52 of the T.P.Act if any party alienates the property more than his/her share will be adjusted at the time of final adjudication.

With the above observation, this appeal is disposed of.

(Shivaji Pandey, J)

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