

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.265 of 2013

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1. Jeetendra Prasad Singh @ Jitendra Kumar Singh
2. Dharmendra Prasad Singh, both sons of Manager Prasad, both residents of Village Lohjira, P.O. and P.S. Majhagarh, District Gopalganj
..... Appellant/s

Versus

1. Sheojee Prasad, son of late Biahri Prasad
2. Sheojee Prasad
3. Satyendra Prasad, both sons of Manager Prasad
4. Sohila Devi
5. Subhashini Devi, both daughters of Manager Prasad, all residents of Village Lohjira, P.O. and P.S. Majhagarh, District Gopalganj
6. Binay Kumar Singh, son of Manager Prasad, resident of Village Lohjira, P.O. and P.S. Majhagarh, District Gopalganj.
..... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sukumar Sinha,
Mr. Avinash Kumar, Advocatge
For the Respondent/s : Mr. Ranjan Kumar Dubey,
Mr.Dharamveer, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 24-11-2015 Heard learned counsel for the appellants and learned counsel for the respondents.

In the present appeal the appellants are challenging the order dated 18.2.2013 passed by the Sub Judge-3, Gopalganj in T.S. No.572 of 2012 by which the trial court has refused to grant injunction.

The appellants and respondents are members of the joint family. For certain land the respondent are claiming to be self acquired property whereas appellants are claiming that it is joint family property and having a right of share in

terms of Hindu Succession Act. So much so it has been claimed that before filing of the suit they have also alienated certain property which belongs to the joint family property.

Learned counsel for the respondents submits that they have given a vague statement about alienation of the property without giving details of land nor they have stated anywhere in the injunction petition with respect to particular land having entered into agreement for the purposes of transfer of property. It has further been averred that the land which is subject matter of construction is a self acquired property. In such view of the matter, the court below has not committed any illegality in refusing to grant injunction.

Having considered the rival contentions of the parties as it appears that the court below has refused to grant injunction taking into consideration one of the factor was operating in his mind, that the appellants have not challenged earlier sale deed as well as no averment has been made with specific detail with regard to respondent to enter into agreement for alienation of the property, on the aforesaid reason, refused to grant injunction. Appellants have not merely given details of alienation of land worked as ground for rejecting the injunction.

Learned counsel for the respondents has submitted that they have no intention to alienate the property and undertakes that during pendency of the suit they will not make any construction or transfer or alienate the property in any manner subject to after taking permission from the court below.

In view of the undertaking the appeal is disposed of.

(Shivaji Pandey, J)

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