

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.151 of 2013

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Surya Prasad Sah S/o Late Bhagwan Sah, resident of village, Post and P.S. Rasulpur, Via Chainwa, District- Chapra, Saran.

.... Appellant/s

Versus

1. Motilal Sah S/o Late Shivdhari Singh, resident of village, Post and P.S. Rasulpur, Via Chainwa, District- Chapra, Saran.
2. Radhika Devi W/o Motilal Sah, resident of village, Post and P.S. Rasulpur, Via Chainwa, District- Chapra, Saran.
3. Uma Shankar Prasad S/o Late Baij Nath Prasad, resident of village, Post and P.S. Rasulpur, Via Chainwa, District- Chapra, Saran.
4. Chameli Devi W/o Surya Prasad Sah, resident of village, P.O. and P.S. Rasulpur, Via Chainwa, District- Chapra, Saran.
5. Prithvi Nath Thakur S/o Late Mandeep Thakur, resident of village, P.O. and P.S. Rasulpur, Via Chainwa, District- Chapra, Saran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Maheshwar Prasad, Adv.

For the Respondent/s : Mr. Awadhesh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

12 25-08-2015 Heard learned counsel for the appellant and learned
counsel for the respondents.

In this case, the appellant is challenging the order dated 28th January 2013 whereby and whereunder the court below has refused to grant the injunction.

The appellant is claiming that he had purchased the disputed land vis-à-vis the respondents have equally claimed to have purchased the land from some of the sharer of the land. The respondents have also claimed that after purchasing the land, they are in possession of the land whereas from the relief sought in

plaint, from which it appears that the appellant himself claims the declaration of title as well as the recovery of possession itself shows that the appellant is not in possession of the land.

In such view of the matter, the question of prima facie does not arise in favour of the appellant as it is well known principle of law, any construction made over the dispute land will be subject to result of the suit. The court below is directed to expedite the trial and complete the process of trial on day to day subject to co-operation extended by the parties.

Accordingly, this appeal is dismissed.

(Shivaji Pandey, J)

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