

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.676 of 2011

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Shree Sampat Kumar Baid, son of Late Sohan Lal Baid, Resident of Sujaganj Bazar Road, P.S. Kotwali, District-Bhagalpur.

.... Plaintiff 2nd Party-Appellant.

Versus

1. Shree Sunil Kumar Baid, son of Late Sohan Lal Baid, resident of Patel Babu Road, P.S. Kotwali, P.O. Bhagalpur City, District-Bhagalpur.

....Defendant.....Respondents.

2. Shree Tara Chand Baid, son of Late Sohan Lal Baid.

3. Smt. Manak Devi Baid, wife of Shree Tarachand Baid.

Both are resident of Sujaganj Bazar Road, P.S. Kotwali, District-Bhagalpur.

.....Plaintiff 1st Party... Respondents (Performa).

4. Smt. Raj Debi Baid, wife of Shree Sampat Kumar Baid, resident of Sujaganj Bazar Road, P.S. Kotwali, District-Bhagalpur.

Plaintiff 2nd Party....Respondents (Performa).

5. Rupesh Kumar Baid, son of Late Sohan Lal Baid, resident of Sujaganj Bazar Road, P.O. Bhagalpur City, P.S. Kotwali, District-Bhagalpur.

.....Plaintiff 3rd Party....Respondents (Performa).

.... Respondents.

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Appearance :

For the Appellant : Mr. Anil Kumar Singh, Advocate.

For the Respondent No.1 : None.

For the Respondent Nos.2 to 5 : Dharendra Nath Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 19-03-2015

Heard learned counsel for the appellant and Respondent

Nos.2 to 5. No one appears on behalf of the Respondent No.1.

2. The present Miscellaneous Appeal has been filed under

Order XLIII Rule 1(r) of the Code of Civil Procedure against the

order dated 03.09.2010 passed by the learned Sub Judge-VI,

Bhagalpur, in Title Suit No.223 of 2007 (Partition), rejecting the

injunction application of the plaintiff-appellant filed under Order

XXXIX Rules 1, 2 of the Code of Civil Procedure restraining the

defendant/Respondent No.1 not to sell the land in dispute.

3. From perusal of the impugned order, it appears that the learned trial court rejected the application of the plaintiff-appellant and Respondent Nos.2 to 5, arriving at the conclusion that the Defendant/Respondent No.1 has admitted the case of the plaintiff-appellant and in such circumstances the Judgment could be passed under Order XII Rule 6 of the Code of Civil Procedure, as such, passing the order for injunction is not justified.

4. I find no illegality in the impugned order calling for interference with the same. Accordingly, this appeal stands dismissed.

(Rajendra Kumar Mishra, J)

P.S./-

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