

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16083 of 2010

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1. M/S Premier Synthetics, Kumaharar, P.S.- Sultanganj, Town And Distt.- Patna
Represented By Its Proprietor Sri Ashok Goenka, S/O Late Kedarnath Goanka
2. Sri Ashok Goenka S/O Late Kedar Nath Goanka, Permanent Address- Lakshmi
Bhawan, G.P.O., Munger, P.S.- Kotwali, Town and Distt.- Munger

.... Petitioner/s

Versus

1. Sri Chandra Bhushan Singh S/O Sri Parmanand Singh R/O Vill.- Bishunpur,
P.S.- Akilpur, Via- Danapur, Distt.- Patna
2. Manoj Kumar Rai S/O Sri Parmanand Singh R/O Vill.- Bishunpur, P.S.- Akilpur,
Via- Danapur, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SHAILENDRA KUMAR SINHA
For the Respondent/s: Mr. Devendra Kumar Sinha, Sr. Advocate
Mr. Pramod Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 20-07-2015

The order under challenge is dated 12.8.2010 passed in
Title Suit No. 24 of 2003 by the court of learned Sub Judge-II,
Danapur. Petitioners are the defendants and their objection filed under
Order 7 Rule 11(d) read with section 151 of the Code of Civil
Procedure has been rejected.

2. A plea was taken that the suit itself did not indicate any
cause of action and was also barred in view of the amendment brought
about under the Indian Registration Act, 1908. The corresponding
amendment relates to 24.9.2001.

3. The court below after due deliberation has taken note of

the fact that such a petition has been moved for other reasons only to defeat expeditious conclusion of the trial which was directed by the Hon`ble High Court earlier especially when suit has reached a decisive stage where evidences are closed and it is a kind of last ditch effort made by the petitioners to derail the proceeding.

4. This is the plea which has also been taken by the respondents and they are fortified and justified in taking such a plea taking into consideration that an earlier order against grant of injunction travelled right up to Hon`ble High Court and the Hon`ble High Court by a detailed decision dated 15.9.2009 passed in M A No. 38 of 2004 & 39 of 2004 had occasion to consider even this plea and discussed the same at page 6 of Anneuxre-2. The ambit and relief which can be granted to the plaintiff has been dealt therein and keeping the same in mind and on a reading of the impugned order, both are in harmony.

5. If this be so, then the learned Sub Judge II, Danapur has committed no error in rejecting the plea or the petition of the petitioners. The Court of learned Sub Judge II, Danapur is very conscious of the fact with regard to extent of relief which can be granted vis-à-vis the provision under section 53(A) of the Transfer of Property Act. What shall be the final relief which will be extended to the plaintiffs cannot be prejudged at this stage.

6. However, no case for interference with the impugned

order is made out because the order does not suffer from any infirmity.

7. The suit must proceed in terms of the direction dated 15.9.2009 issued by the Hon`ble High Court, contained in Annexure-2 to the writ application.

8. Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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