

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.74 of 2016**

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Mohamad Ali @ Bachu Babu @ Bachchu

.... Appellant/s

Versus

Sheo Kumari Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Satya Prakash

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**

ORAL ORDER

2 02-08-2016 Heard the learned counsel, Mr. Ajay Kumar Singh for the
petitioner.

Both the Courts below allowed the injunction application
filed by the plaintiffs-respondents and restrained the petitioner
from transferring the suit property during the pendency of the suit.

It appears that the plaintiffs-respondents filed mortgage
suit for directing the defendant-petitioner to receive the
consideration amount and hand over the mortgage deed to the
plaintiff and also prayed for recovery of the possession of the
property. During the pendency of the suit, the plaintiffs-
respondents filed application for injunction under Order 39 Rule 1
and 2 praying for restraining the petitioner, who was defendant in
the Court below, from transferring the property to strangers. The
trial court allowed the injunction application. On appeal, the
appellate court confirmed the order of the Court below.

The grievance of the petitioner is that none of the ingredients for grant of injunction has been considered by the Courts below and the petitioner has been restrained from transferring the suit property. However, at the time of hearing of this civil miscellaneous application, it was submitted by the petitioner that he is ready to transfer the property. It is also submitted that prior to filing this suit, the petitioner has already sold 2 kathas of the land.

In view of the factual position that the petitioner has already sold 2 kathas of land and he is also ready to transfer the other properties, the Courts below have rightly restrained the petitioner from transferring the suit property, may be under Section 151 C.P.C.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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