

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1028 of 2016**

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Kapildeo Singh

.... Appellant/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anirudh Kumar Verma

For the Respondent/s : Mr. Subhash Chandra Yadav-G.P.15

Mr. Rakesh Kumar Shrivastava, A.C. to G.P.15

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 10-11-2016 Heard the learned counsel for the petitioner and the

learned counsel for the State-respondent.

Perused the impugned order dated 20.02.2016 passed by
the learned District Judge, Aurangabad in Misc. Appeal No.8 of
2014 whereby the learned Court below has dismissed the
miscellaneous appeal and thereby confirmed the order passed by
the trial court i.e. Munsif, Aurangabad in Title Suit No.60 of
2013/CIS No.5 of 2014 by which the trial court has rejected the
injunction application.

It appears that the plaintiff-petitioner filed the suit for
declaration that the suit property is the public land and further for
the grant of injunction restraining the defendants from digging
foundation for construction of boundary wall over the suit land.
The defendants-respondents filed contesting written statement
alleging that the property is not the public property rather it is the

private land of the defendant. The State and State authorities also filed written statement supporting the claim of the plaintiff.

Thereafter, injunction application has been filed by the petitioner in the Court below praying therein to restrain the defendants from disturbing the puja functions of Laxmiji from 23.10.2014 to 25.10.2014. Both the Courts below have rejected the prayer.

From perusal of the order passed by the lower appellate court, it appears that the lower appellate court after perusal of the documentary evidences and report of Circle Officer clearly recorded a finding that prima facie the defendants are in possession of the suit property. No doubt, the State authorities have filed written statement stating that the property is public property but then till today the State has not taken any steps for eviction of the defendant from the suit property. Further, the period for which the injunction was prayed for i.e. from 23.10.2014 to 25.10.2014 had expired two years ago.

In view of the above facts and circumstances of the case, particularly when the Court below has clearly recorded the finding of possession in favour of the defendants, the Courts below have rightly rejected the injunction application, as such, it requires no interference in supervisory jurisdiction under Article 227 of the

Constitution of India.

Accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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