

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7462 of 2014

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1. Sakil Mian
2. Kalim Mian
3. Naim Mian Sl. No. 1 to 3 are sons of Shani Mian null
4. Alamgir Mian S/o Late Samsul Mian
5. Idish Mian S/o Late Jamadar Mian All are resident of village Langari,
P.S. Lauriya, District - West Champaran

.... Petitioner/s

Versus

1. Gafur Mian
2. Safique Mian
3. Rafique Mian
4. Suleman Mian All Sons of Late Khalil Mian R/o Village - Langari, P.S.
Lauriya, District - West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Pathak

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 22-02-2016 Heard learned counsel, Mr. Vishwajit Kumar,

appearing for the petitioners.

2. By the impugned order date 06.02.2014, the learned

Adhoc Additional District Judge, 1st, West Champaran at Bettiah

dismissed the Miscellaneous Appeal No. 04 of 2012 and thereby

confirmed the order rejecting the injunction application passed by

the trial court on 19.12.2011 in T.S. No. 46 of 2011.

3. Perused the order passed by the court below. The

plaintiffs-petitioners are claiming to be in possession of the

property against which they prayed for injunction restraining the

defendants from interfering with their peaceful possession. The defendants filed rejoinder and they claimed that they are in possession of the property. After hearing both the parties and on the basis of the pleadings of the parties, the trial court as well as the appellate court both, concurrently, held that the plaintiffs have got no prima facie case for grant of injunction.

4. In view of the above factual position, particularly, when both the parties are claiming possession over the property, if injunction is granted in favour of the plaintiffs, it will amount to declaration of possession of the plaintiffs at the stage of injunction itself.

5. In such view of the matter, I find no reason to interfere with the order passed by the courts below. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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