

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7570 of 2015

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Ramjan Ansari & Ors

.... Petitioner/s

Versus

Saddik Ansari & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Gupta

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 07-04-2016

Heard, learned counsel, Mr. Sharda Nand Mishra,
appearing for the petitioners.

2. The plaintiffs-petitioners have filed this writ application against the order passed by the District Judge, Madhepura in M.A. No. 02 of 2014, whereby the District Judge dismissed the miscellaneous appeal by order dated 26.03.2015 and confirmed the order passed by the trial court dated 22.05.2014 passed by the Sub-Judge (Senior Division)-I, Madhepura in T.S. No. 267 of 2013 rejecting the injunction application.

3. From perusal of the impugned order, it appears that both the courts below concurrently confirmed that the plaintiffs have got no, prima facie, case nor application of injunction is in favour of the plaintiffs.

4. In such view of the matter, when both the courts below recorded clear finding, this Court in exercise of supervisory

jurisdiction cannot substitute its own finding on the basis of same materials and pleadings between the parties. However, at the time of hearing of the this writ application, learned counsel for the petitioners submitted that in fact, in the counter affidavit to the injunction application, the defendants clearly stated that it is false to say that they are negotiating to transfer the property but subsequently, after rejection of the injunction application, they have already transferred many suit properties. If that be so, the petitioners are at liberty to file further injunction application on the new facts and pray appropriate relief before the trial court but on that ground, the impugned order challenged in this writ application cannot be interfered with. Thus, this writ application is dismissed with the aforesaid liberty.

5. However, it is made clear that if any application will be filed on subsequent event, this order will not operate as *res judicata*.

(Mungeshwar Sahoo, J)

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