

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7084 of 2016

In
MA 404 of 2014

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Shailendra Kumar Singh

.... Petitioner/s

Versus

Smt. Parwati Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

7 19-10-2016 Heard learned counsel for the petitioner.

Perused the Judgment and impugned order dated 21.04.2014 passed by the learned Adhoc Addl. District Judge-IV, Darbhanga in Misc. Appeal No.9 of 2012 whereby the learned lower appellate Court has dismissed the Misc. Appeal and thereby confirmed the trial Court order dated 24.4.2012 passed by Sub Judge I, Darbhanga in title Suit No.39 of 2012 whereby the injunction application filed by the plaintiff petitioner was rejected.

It appears that the plaintiff petitioner filed the aforesaid suit for declaration of title and confirmation of possession. It is alleged by the plaintiff that the suit property is the ancestral property of the plaintiff and it was never denoted to Bhudan Yagyan Committee by the ancestor of the plaintiff and the plaintiff is coming in continuous possession thereof. The defendants

appeared and filed written statement alleging that the property was donated to Bhudan Yagyan Committee by the ancestor of the plaintiff and in turn, the Bhudan Yagyan Committee settled the land with the vendor of the defendant and the defendant purchased the property in the year 2008, i.e., on 24.01.2008 by registered sale deed and since then he is in possession of the property.

Injunction application was filed by the plaintiff in the Court below praying for restraining the defendant from interfering with the peaceful possession of the plaintiff. Reply to the injunction application was filed by the defendant to the effect that they are in possession of the property, therefore, there is no question of interfering with the possession of the plaintiff arises. The learned trial Court rejected the injunction application finding that the plaintiff has got no prima facie case.

In Appeal, the appellate Court also considering the submissions of the parties by the impugned Judgment / order dismissed the Misc. Appeal and thereby confirmed the trial Court order.

Admitted position is that the plaintiff has filed the suit for declaration of title and confirmation of possession. Now, therefore, his possession is to be confirmed by the Court on the basis of the evidences that may be produced by the parties.

On the contrary, the defendants have got a registered sale deed dated 24.01.2008 and on the basis of the registered sale deed, they are claiming to be in possession of the property. Now, if injunction is granted in favour of the plaintiff at this stage itself, the possession of the plaintiff will be confirmed and it will amount to the declaration of possession of the plaintiff which could only be granted after decree of the suit and not at this stage.

In view of the above facts and circumstances of the case, no case for interference in exercise of supervisory jurisdiction is made out. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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