

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5313 of 2014**

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Ram Gopal Prasad, Resident Of Mohalla - Rikabganj, P.S. - Tekari,  
District - Gaya

.... .... Petitioner

Versus

1. Jairam Prasad S/O Late Premchand Sao  
2. Goutam Kumar  
3. Narayan Kumar  
4. Dinesh Kumar All 2 to 4 are Sons of Jairam Prasad Resident of Mohalla -  
Rikabganj, P.S. - Tekari, District - Gaya  
5. Ram Dulari Devi Widow of Late Raja Ram Prasad  
6. Shiv Gopal Prasad  
7. Arun Kumar  
8. Satyendra Kumar All No. 6 to 8 are Sons of Late Raja Ram Prasad All  
Resident of Mohalla - Rikabganj, P.S. - Tekari, District - Gaya  
9. Pushpa Devi D/o Late Raja Ram Prasad And Wife of Shashi Prasad  
Gupta Resident of Village - Bigan Bigha, P.S. -Dehri, District - Rohtas

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Abhinay Raj, Adv.

For the Respondent/s : Mr.

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

3      10-02-2016                      Heard the learned Senior counsel, Mr. Devendra Kumar  
Sinha, for the petitioner.

This application under Article 227 of the Constitution  
of India has been filed by the petitioner against the judgment dated  
25.01.2014 passed by the Ad-hoc Additional District Judge IV,  
Gaya in Misc. Appeal No. 5 of 2013/9 of 2013 whereby the Court  
below dismissed the Misc. Appeal and confirmed the trial Court  
order dated 16.02.2013 passed in Partition Suit No. 218 of  
2009/116 of 1996 whereby the trial Court has rejected the

application for injunction under order 39 Rule 1 and 2 filed by the defendant-petitioner.

It appears that the plaintiff-respondent filed the suit for partition of the suit property. By subsequent amendment, plot no. 269 was added as subject matter of the partition suit. The plaintiff claimed that it is his personal property purchased by him. The defendant claimed that this plot no. 269 is the property purchased by the defendant. Thereafter, the defendant filed injunction application praying for injunction restraining the plaintiffs from demolishing/damaging the construction on plot no. 269. Both the courts below have rejected the application.

Perused the order passed by the Court below. Perused the Judgment also passed by the appellate Court. Both the Courts below concurrently after perusing all the materials and taking note of the submissions of the petitioners recorded finding that there is no prima facie case for grant of the injunction. Therefore, so far this finding that there is no prima facie case and that the suit property admittedly is purchased in the name of the plaintiff through a registered sale deed, this became the finding of fact.

The Hon'ble Supreme Court in the case of *Jay Singh and others Vs. Municipal Corporation, (2010) 9 SCC 385* has held that *“the High Court is expected to exercise supervisory*

*jurisdiction with great care, caution and circumspection. The exercise of supervisory jurisdiction must be within the well recognized constrains. It cannot be exercised like a “bull in China Shop” to correct all errors of judgment of a court, or tribunals, acting within the limits of its jurisdiction.”*

In view of the above settled proposition of law laid down by the Hon’ble Supreme Court, the finding of fact recorded by the Court below to the effect that the sale deed stands in the name of the plaintiff no.1, the impugned order cannot be interfered with in supervisory jurisdiction.

Thus, this writ application is dismissed.

**(Mungeshwar Sahoo, J.)**

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