

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7325 of 2015

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Sita Yadav

.... Petitioner/s

Versus

Nashim Abdin

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Chandra Pandey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

4 13-05-2016 Heard the learned counsel, Mr. R.C. Sinha, for the petitioner.

The lower appellate Court, i.e., A.D.J. V, Patna dismissed the Misc. Appeal No.27 of 2013 / 341 of 2014 by order dated 09.12.2014 and confirmed the injunction order passed by Sub Judge 1st Patna City in Title Suit No.150 of 2013 on 22.08.2013.

From perusal of the appellate order, it appears that the lower appellate Court on the basis of the materials and submissions before the Court came to the conclusion that the plaintiff has got no prima facie case for the grant of injunction and if injunction is not granted, the petitioner shall not suffer any loss or injury. It appears that the plaintiff petitioner filed title suit for declaration of title on the basis of sale deed. The defendant claimed the suit property is still in possession of the defendant and the suit

property has been surrounded by the boundary wall. Both the parties, therefore, claimed possession over the suit property. The plaintiff prayed for injunction restraining the defendants from interfering with the peaceful possession of the plaintiff. If at this stage, the defendants are restrained from dispossessing the plaintiff, this order will amount to declaration of possession of the plaintiff without their being any evidence recorded in the suit. Therefore, both the Courts below have rightly held that if no injunction order is granted, it will not cause any loss to the petitioner and the petitioner has got no prima facie case.

In view of the above concurrent finding of both the Courts below, I am not inclined to interfere with the impugned order. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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