

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.477 of 2016

In
C.R. 123 of 2015

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Indranand Yadav & Ors

.... Petitioner/s

Versus

Indira Devi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhav Roy

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

4 29-02-2016 **1.** Heard the learned counsel, Mr. Madhav Roy, for the petitioner.

2. The plaintiff filed injunction application in Title Suit No.32 of 2010 which was filed for declaration of title and confirmation of possession. In the injunction application, the plaintiff prayed for injunction restraining the defendant from dispossessing the plaintiff and for alienating the suit property. The defendant filed written statement and also rejoinder to the injunction application denying the possession of the plaintiff and the defendant's claim to be in possession of the property and also stated that they are not going to sell the property. The trial Court dismissed the injunction application whereupon the plaintiff filed Misc. Appeal No.10 of 2013 before the lower appellate Court.

The lower appellate Court dismissed the appeal and confirmed the trial Court Judgment.

3. From perusal of the impugned order, it appears that the trial Court clearly held that there is nothing on record at this stage to show that which party is in possession of the property. Both the parties are claiming possession. The Court below also held that nothing has been brought on record to show that in fact the defendants have ever negotiated to transfer the property. Merely on the basis of apprehension, no injunction can be granted.

4. It is admitted position that both the parties are claiming possession over the suit property. If injunction is granted in favour of the plaintiff and against the defendant at this stage then it will amount to declaration of possession of the plaintiff which he can get only after the suit is decreed.

5. So far the question regarding restraining the defendant from selling the property is concerned, it may be mentioned here that the plaintiff is claiming declaration of title and further that his title is yet to be declared by the Court. The defendants nowhere alleged that they are negotiating or they are desiring to sell the property. Therefore, both the Courts below have held that in fact on apprehension, no injunction can be granted.

6. In view of the above position, there is no question of interference in exercise of supervisory jurisdiction arises. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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