

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7062 of 2015

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1. Ekram Singh, S/o Late Bhagwat Singh.
2. Basawan Singh, S/o Sri Ram Janam Singh.
Both are residence of Village – Malthar, P.S.-Udwant Nagar, District-Bhojpur.
..... Petitioners

Versus

1. Basmto Devi, D/o Ekram Singh, wife of Kameshwar Singh, Residence of Village-Baruna, P.S.-Narayanpur, District-Bhojpur. At present Village-Malthar, P.S.-Udwantnagar, Dist.-Bhojpur.
2. Kaushalya Devi, D/o Ekram Singh, Wife of Sanjay Singh, Residence of Village-Dubauli, P.S.-Udwantnagar, Dist.-Bhojpur. At present Resident of – Malthar, P.S.-Udwantnagar, District-Bhojpur.
3. Ramjanam Singh, S/o Late Bhagwat Singh.
4. Sanjay Singh.
5. Ajay Singh.
6. Dhananjay Singh.
All sons of Sri Basawan Singh, residence of village-Malthar, P.S.-Udwantnagar, Dist.-Bhojpur.

..... Respondent

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Appearance:

For the Petitioner/s : Mr. Aditya Narayan Singh No. 1
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 31-03-2016 Heard the learned counsel, Mr. Aditya Narayan Singh No.1, for the petitioners.

The Trial Court by the order dated 22.01.2013 granted injunction restraining the petitioners from installing petrol pump on the part of Suit property in Partition Suit No. 554 of 2005. The defendant petitioners filed appeal before the lower Appellate Court. The lower Appellate Court also confirmed the trial court judgment recording a finding that prima facie, it appears that the plaintiff respondent is the daughter of Ekram Singh and she has a share to the extent of 1/6th in the Suit property. Both the Courts below have recorded that the plaintiffs have got prima facie case and if the petrol pump is allowed to

install by the petitioners, it will change the nature of the Suit property and therefore the balance of convenience is also in favour of the plaintiff.

The Hon'ble Supreme Court in the case of **National Hydroelectric Power Corporation v. Nanak Chand AIR 2005 Supreme Court 104** has held that allowing change of status quo of property during pendency of litigation is not justified except in exceptional circumstances. In that case, it appears that the High Court also granted injunction but the Supreme Court vacated it on this ground.

In view of the above facts and circumstances of the case, when both the courts below on the basis of the materials have recorded finding regarding the ingredients of granting of injunction, this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India cannot substitute its own finding in place of the finding recorded by the Courts below.

Thus I do not find any reason to interfere with the impugned order and accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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