

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9485 of 2015

=====

Smt. Jebar Devi

.... Petitioner/s

Versus

Smt. Shail Kumari Devi & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Jai Prakash Verma

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 25-04-2016

Heard the learned counsel for the petitioner.

In a suit for declaration of title and possession, the present petitioner filed an application for being added as party on the ground that during the pendency of the suit, the petitioner has purchased the property from the defendant. The Court below by the order dated 06.04.2015 passed in Title Suit No.6 of 1986(Sub Judge IV, Muzaffarpur) held that after injunction order passed by the Court restraining both the parties to alienate the property, the defendants have transferred the property to the present petitioner and accordingly, rejected the application.

The Hon'ble Supreme Court in the case of **Surjit Singh and others etc. etc. v. Harbans Singh and others etc. etc., AIR 1996 Supreme Court 135** has held that in defiance of restraint order, the alienation/assignment was made. If we were to let it go as such, it would defeat the ends of justice and the prevalent public

policy. When the Court intends a particular state of affairs to exit while it is in seisin of a lis, that state of affairs is not only required to be maintained, but it is presumed to exist till the Court orders otherwise. The Court, in such circumstances has the duty as also the right to treat the alienation/assignment as having not taken place at all for its purposes and the alienee/transferee cannot claim as a matter of right to be impleaded as parties on the basis of either assignment or purchase. This view has been affirmed by the Supreme Court in AIR 2007 Supreme Court 1332. Therefore, the Court below has rightly rejected the application filed by the petitioner. Thus, I find no reason to interfere with the impugned order.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	
---	--	---	--