

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1213 of 2016

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Md. Naseem

.... Appellant/s

Versus

Md. Taimuddin & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 09-12-2016

Heard learned counsel for the petitioner.

Perused the impugned judgment dated 23.08.2016 passed by learned A.D.J.-IV, Aurangabad in Miscellaneous Appeal No.06 of 2015/02 of 2015 whereby the lower appellate court has dismissed the miscellaneous appeal and thereby confirmed the order of the trial court dated 10.02.2015 passed by Munsif, Aurangabad in Title Suit No.36 of 2014 rejecting the injunction application filed by the plaintiff-petitioner.

From perusal of the impugned judgments of the courts below, it appears that the plaintiff-petitioner filed the suit for declaration of title on the basis of registered gift deed executed in his favour by his father defendant no.1. Defendant no.2 filed contesting written statement alleging that in fact the property has been purchased by the defendant no.2 from defendant no.1 i.e. father of the plaintiff-petitioner and after purchase defendant no.2



is in possession of the property. Thereafter injunction application was filed by the plaintiff-petitioner praying for restraining the defendant from dispossessing the plaintiff from the suit premises. The courts below recoded clear finding that the plaintiff has got no prima facie case and that balance of convenience is not in favour the plaintiff and accordingly both the courts below have rejected the injunction application.

In view of the above concurrent finding of the courts below that the plaintiff has got no prima facie case for grant of injunction and that balance of convenience is also not in favour of the plaintiff, this Court in exercise of supervisory jurisdiction for the purpose of supervising the impugned judgment cannot take another view on the same set of facts. Thus, I find no reason to interfere with the impugned judgment and accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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