

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18257 of 2015

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Lalan Hajra

.... Petitioner/s

Versus

Rudal Yadav & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 27-06-2016

Heard learned counsel, Mr. Ratan Kumar Sinha,
appearing for the petitioner.

2. It appears that the plaintiffs-respondents filed the suit for declaration of title and for confirmation of possession after declaring that the sale deed in favour of the defendant-defendant is not binding on the plaintiffs. The defendants filed written statement alleging that on the basis of sale deed, they are in possession of the suit property. Injunction application was filed by the plaintiffs-petitioners praying restraining the defendant from interfering with the peaceful possession of the plaintiff and alienating the suit property. The trial court allowed the injunction application. On appeal, the lower appellate court, by the order dated 18.09.2007 passed by the Additional District and Sessions Judge, Fast Track Court –III, West Champaran at Bettiah set aside the order passed by the trial court.

3. Admittedly, the injunction application has been rejected by the appellate court in the year 2007. Nine years have passed. In the meantime, no further development has been made as nothing has been stated in the writ application.

4. From perusal of the order impugned, it appears that the lower appellate court has clearly recorded finding that the plaintiff has got no *prima facie* case nor balance of convenience is in favour of the plaintiff. Now, therefore, when there is no injunction since last nine years, as such, after expiry of nine years, in view of the finding recorded by the court below on the basis of material available, this Court should not interfere in exercise of supervisory jurisdiction. Moreover, if at this stage, injunction is granted to the respondent restraining them from interfering with the possession of the plaintiff then it will amount to declaration of possession of the plaintiff, which can only be decided on the basis of evidences that may be brought on record by the parties and further it is a relief in the suit itself. Thus, I find no reason to interfere with the impugned order. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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