

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.177 of 2017

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Md. Habib Uddin & Ors

.... Appellant/s

Versus

Bibi Nurshadi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gopal Kumar Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 02-02-2017

Heard the learned counsel for the petitioners.

Perused the impugned order dated 30.11.2016 passed by the learned Additional District Judge III, Araria in Misc. Appeal No. 03 of 2016, whereby the learned appellate court dismissed the appeal and affirmed the injunction order dated 18.04.2016 passed by the learned Munsif, Araria in Title Suit No. 40 of 2013 rejecting the injunction application filed by the defendant-petitioner.

It appears that the plaintiff-respondent filed the suit for declaration that the sale deeds executed in favour of the defendants are null, void, illegal and inoperative. The defendant filed application for injunction praying for restraining the plaintiff from making any construction of *Jhopri* (hut). The plaintiff filed reply to the injunction application alleging that in fact he has his hut already existing on the suit plot. The learned trial court merely recorded finding that the defendant-petitioner filed the application for injunction without



specifying as to in which part of the suit plot, the plaintiff-respondent is making *Phus* house construction. The defendant nowhere denied that the plaintiff have got his hut already on the suit plot. The court below then after considering the case came to the conclusion that the plaintiff has got no prima-facie case nor the balance of convenience is in favour of the petitioner. The petitioner then filed Misc. Appeal before the learned appellate court. The learned appellate court considered the case of the parties and the order passed by the court below and then found in the order passed by the lower court dismissed in view of the submission and the courts below have concurrently came to the conclusion that the petitioner has got no prima-facie case.

This Court in exercise of supervisory jurisdiction cannot take the other view for the purpose of supervising the impugned order. The orders passed by the courts below are within the jurisdiction of the court, as such there is no jurisdictional error.

Accordingly, this civil misc. application is dismissed.

(Mungeshwar Sahoo, J.)

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