

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.371 of 2017

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Chanda Sharan (aged about 60 years), D/o Late Girish Nandan Shahi, W/o Shree Ramanuj Sharan, resident at Mohalla- Sri Krishna Nagar, P.S. Budha Colony, District- Patna, at present- 2754, Orchard Walk, Jonesboro, Garzia, 30236-5361, U.S.A.

.... Petitioner

Versus

1. Rima Shahi.
2. Neha Shahi, Both alleged to be daughters of late Dr. Vinod Kumar Shahi.
3. Neelam Shahi alleged to be W/o Dr. Vinod Kumar Shahi, resident of Mohalla and P.S. Brahmpura, P.O.- M.I.T., District- Muzaffarpur.
4. Sri Varun Shahi, S/o Late Dr. Vinod Kumar Shahi, resident of Mohalla and P.S. Brahmpura, P.O.- M.I.T., Dist.- Muzaffarpur.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Kumar Kaushlendra, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-04-2017

Heard the learned counsel for the petitioner.

This application has been filed against the impugned order dated 01.12.2016 passed in Partition Suit No.1079/2015, by which the learned court below has rejected the petition dated 04.01.2016 filed on behalf of the defendant-petitioner, seeking permission for transfer of the part of the suit land during the pendency of the suit by partially varying the order dated 04.12.2015, by which the parties have been restrained from transferring or alienating the suit property.

From the perusal of the impugned order as well as the materials on record, it transpires that the suit for partition has been



filed by the plaintiff respondents. It, further, transpires that on the prayer and the petition filed by the plaintiffs, the order was passed on 04.12.2015 restraining both parties from transferring or alienating the suit land. The learned court below after considering the materials on record and the facts and circumstances of the case, has come to the conclusion that the petitioner has not disclosed any compelling circumstance or specific legal necessity to transfer half portion of the suit property, which is a residential house. It has also been taken into notice that the defendant no.2 has taken specific stand that the plaintiff no.1 and her daughters and the defendant no.1 are in collusion. It is manifest therefore that the learned court below has given cogent reasons for turning down the prayer of the defendant-petitioner for transfer of the suit property by varying the injunction order. In this background, this Court is not inclined to exercise the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2017
Transmission Date	

