

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.885 of 2016

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1. Rita Devi sife fo Nand Kishr Sah, resident of Village- Banwripur, P.O. Jaitipur(Dariyapur), P.s. Dariyapur, District6- Saran.
 2. Sri Bhagawan singh son of Late devasi singh, Resident of village- Sikati, P.o. Anjani(Parsa), P.S. Parsa at present Village- Bela Tole, Musehari, P.S. Dariyapur, District saran.

.... Appellants

Versus

1. Shobha Devi wife of Sri Upendra Kumar Singh, resident of village- Jalalpru, P.o. Bela, P.s. Dariyapur, District Saran.
2. Rameshwar singh.
3. Sikandar Singh. Both sons of Devnath Singh
4. Gayatri Devi wife of Satyendra Singh, Daughte of late Devnath singh. All are resident of village Bela Tole ,Musehari, P.s. Arvind Nagar, P.S. Dariyapur, District- Saran.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Vijay Kumar Srivastva

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 13-04-2017

Heard the learned counsel appearing for the
petitioners and the learned counsel appearing for the respondents.

The present application has been filed for
quashing the impugned order by the appellate court below in appeal
which was filed against the order of injunction granted in favour of
the plaintiff-respondents in the suit.

The learned counsel for the petitioners has
submitted that the petitioners have got their residential house in the
plot and therefore the plaintiff in the garb of injunction only intends to



dispossess the petitioners from their house. It has also been submitted that both the courts below have not properly considered the matter and has wrongly negated the case of the defendant.

The learned counsel for the respondent no.1, however, has pointed out that the petitioner no.1 is purchaser from petitioner no.2 who had no title remaining now after the acquisition of entire land by the Railway and therefore any transfer made by the petitioner no.2 in favour of petitioner no.1 was clearly void and illegal. The learned counsel has further put emphasis on the case of the plaintiff being in possession over the disputed land.

After considering the submissions and perusal of the materials on record, it is manifest that both the courts below have come to the concurrent finding that the plaintiff has got prima facie case, balance of convenience and irreparable injury in his favour. This Court has not been persuaded to hold that the concurrent findings of fact by both the courts below suffer from vice of perversity or unreasonableness. In that view of the matter, this Court is not inclined to interfere in the impugned order under Article 227 of the Constitution of India.

The application is accordingly dismissed.

(V. Nath, J)

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