

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.1293 of 2016

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1. Kedar Nath @ Kedar Ram, son of Late Haricharan Ram,
 2. Ajay Ram @ Ajay Kumar, son of Kedar Nath @ Kedar Ram, Both residents of Mohalla- Tarchha, Ward No.6, P.O., P.S. and District- Sheikhpura.

.... Appellants

Versus

1. Devendra Prasad, son of Baldeo Mahto, resident of Mohalla- Hasanganj, Ward No.4, P.O., P.S. and District- Sheikhpura.
2. Ashish Kumar, son of Late Deepak Prasad and Grand Son of Late Baidyanath Prasad, Resident of Mohalla- Nonmuhiya, Patna, P.O.- Patna, P.S.- Sultanganj, Patna-6.
3. Special Officer-cum-Town Executive Officer, Nagar Parishad, Sheikhpura, P.O., P.S. and District- Sheikhpura.
4. The State of Bihar through the Collector, Sheikhpura Collectorate Sheikhpura, P.O., P.S. and District- Sheikhpura.

.... Respondents

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Appearance:

- For the Appellant/s : Mr. R. K. P. Singh, Advocate.
Mr. Vidya Sagar, Advocate
- For Respondent No.2 : Mr. T. N. Matin, Sr. Advocate.
Mr. Sudhir Kumar, Advocate.
Mr. Biresh Kumar Sinha, Advocate.
- For Respondent no.3 : Mr. Anil Kumar Saxena, Advocate.
- =====

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA

JAISWAL

ORAL JUDGMENT

Date: 16-11-2017

The interlocutory application no. 8987 of 2016 has been filed by the appellants for restraining the respondent no.1 from making any construction/changing physical feature of the suit property as described and detailed in schedule-1 of the plaint during the pendency of the appeal and this Miscellaneous appeal has also been filed for the said purpose, hence, with the consent of the parties, heard them on this appeal as well as aforesaid interlocutory application.

2. This miscellaneous appeal has been filed against the



order dated 20.08.2016 passed by Sub-Judge-III, Sheikhpura in Title Suit No. 28 of 2016, whereby the learned lower court rejected the injunction petition of the plaintiff-appellant.

3. Factual matrix of the case is that the plaintiff-appellant filed Title Suit No. 28 of 2016 against the respondents for declaration of title as well as restraining the respondents from making any construction over the suit property and from changing the physical feature and configuration of the suit property.

4. During the pendency of the said suit, plaintiff-appellant filed an injunction petition to restrain the respondent no.1 from constructing the house over the suit land and changing the nature of the property in question described and detailed in Schedule-1 of the plaint. Respondents filed a rejoinder against the said petition.

5. After hearing the parties and perusing the record, learned lower court passed the impugned order which has been assailed by the plaintiff-appellant by filing this appeal.

6. During the course of argument, learned counsel for respondent no.1 has submitted that the said respondent has already raised construction over the property in question and he is not going to make any further construction over the same except plastering and white washing in the aforesaid construction. Respondent no.1 by filing counter affidavit has also submitted that he has made



construction over the suit land which is almost complete.

7. As this appeal has been filed against the order of rejection of injunction petition filed for restraining the respondent no.1 from making any construction over the suit property and changing its physical feature and as respondent no.1 has already made construction over the property in question and undertakes not to make any further construction over the said property except plastering and white washing of the construction already raised by him, hence, respondent no.1 is directed not to make any further construction over the property in question except plastering and white washing of the construction already raised by him during the pendency of the Title Suit No. 28 of 2016.

8. Accordingly, this miscellaneous appeal as well as interlocutory application stands disposed of.

9. Learned lower court is directed to dispose of the aforesaid title suit as expeditiously as possible. Learned counsels for the parties also undertake to extend all sorts of support to the court in disposal of the case at the earliest.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	20.11.2017
Transmission Date	

