

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.330 of 2013

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Sri Mundrika Prasad son of Late Munshi Prasad, Resident of Village Pachrukhiya,
Police Station Kako, District Jehanabad at present resident of Eastern Jaganpura,
Police Station Ram Krishna Nagar, District Patna.

.... Plaintiff/ Appellant.

Versus

Smt. Anita Yadav, wife of Sri Vijay Kumar Yadav, resident of village, Saidpur,
Police Station Ekangarsarai, District Nalanda, at present resident of Eastern
Jaganpura, Police Station Ram Krishna Nagar, District Patna.

.... ...Defendant/ Respondent/s

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Appearance :

For the Appellant/s : Mr. Devi Das Srivastava, Adv

For the Respondent/s : Md. Anisur Rahman, Adv

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT

Date: 30-10-2018

Heard learned counsel for the appellant
and learned counsel for the respondent on this
miscellaneous appeal.

This miscellaneous appeal has been
preferred against the order dated 19.03.2013 passed by
the learned Sub-Judge-X, Patna in Title Suit No. 359 of
2011, whereby the learned lower Court rejected the
injunction petition of the plaintiff/appellant filed under
Order 39 Rules 1 & 2 read with Section 151 C.P.C.

The factual matrix of the case is that
plaintiff/appellant filed Title Suit No. 359 of 2011 for
declaring the gift deed dated 07.04.2010, purported to be



executed by the appellant in favour of the defendant/ respondent, to be void. During pendency of the aforesaid suit, the plaintiff filed a petition under Order 39 Rules 1 & 2 read with Section 151 C.P.C. to restrain the respondent, who happens to be his daughter, from alienating the property in question during pendency of the aforesaid suit.

Respondent put her appearance in the case and filed rejoinder. After hearing the parties and perusing the record, the learned lower court rejected the aforesaid injunction petition of the plaintiff vide order dated 19.03.2013.

Being aggrieved and dissatisfied with the aforesaid rejection order the plaintiff has preferred this appeal.

During pendency of this appeal, the appellant, by filing supplementary affidavit on 27.06.2013, submitted that the respondent and her husband have always been disturbing in peaceful possession of the appellant and are trying to dispossess the appellant from the suit property and they are destroying the construction of the house in question and



also creating obstruction in the access to the house in question by locking the door of the house. After filing the aforesaid supplementary affidavit, this court vide order dated 30.04.2014 directed to maintain status quo as existing till date regarding the suit property and vide order dated 07.08.2014 the aforesaid interim order dated 30.04.2014 was made absolute.

For disobedience of the aforesaid order of status quo by the respondent, the appellant filed I.A. No.5297 of 2017 while respondent filed I.A. No.7080 of 2018 to vacate the aforesaid status quo order to enable her to make necessary repairing and carry on white washing in the property in question as she has been residing in the house in question and the marriage of her daughter has been finalized and is going to be held in the month of November, 2018.

During hearing of this appeal both the parties not pressed their aforesaid respective interlocutory application. However, it is submitted by learned counsel for the appellant that the evidence of the appellant in the aforesaid case has been concluded and one witness of the respondent has also been examined and the case is



likely to be concluded in near future. It is further submitted that the appellant is not going to create any hindrance in the necessary minor repairing and white washing of the portion of the property in question in occupation of the respondent during pendency of the aforesaid case.

On the other hand it is submitted by learned counsel for the respondent that during pendency of the suit in the learned Court below, she is neither going to alienate the property in question to anyone nor making any destruction in the same or creating interference in the peaceful possession of the appellant over the property in question. She simply wants to make necessary minor repairing and white washing in the portion of the house in her occupation.

On the aforesaid submissions of the parties, respondent is directed not to alienate the property in question to anyone, not make any destruction in it and not create any interference in peaceful possession of the appellant over it during pendency of the aforesaid Title Suit. Appellant is also directed not to make any hindrance in minor repairing and white washing of the



portion of the house in occupation of the respondent during pendency of the said suit.

Accordingly, I.A. No.5297 of 2017 and I.A. No.7080 of 2018 stands rejected as not pressed and this miscellaneous appeal is disposed of. However, the learned lower Court is directed to dispose of the Title Suit No.359 of 2011 within a period of four months from the date of receipt/production of a copy of this order.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.11.2018
Transmission Date	03.11.2018

