

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.579 of 2016

1. Smt. Shobha Kumari D/O Late Sita Ram Sao and W/o Shri Birendra Narayan.
2. Smt Saroj Kumari D/o Sita Ram Sao W/o Sri Anil Kumar Kashyap. Resident of Mophalla-Machhua Toli, P.S Kadam Kuan, Town and District -Patna

... .. Defendants/Appellants

Versus

1. Ranjit Sao S/o Late Ramdas Sah, resident of Mohalla Machhua Toli, P.S- Kadamkuan, Town and Dist- Patna
2. Smt Neelam Devi W/o Rabindra Kumar @ Laddu Singh resident of Mohalla Machhua Toli, P.S- Kadamkuan, Town and Dist- Patna
3. Chandrawati Devi widow of Late Sita Ram Sao resident of Mohalla Machhua Toli, P.S- Kadamkuan, Town and Dist- Patna

..Plaintiffs-Respondents

... .. Defendant/Respondent

Appearance :

For the Appellant/s : Mr. Abhinay Raj
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 10-09-2018 An affidavit has been filed on behalf of the appellants undertaking therein that the appellants shall hand over the possession of the suit property in terms of the decree by March, 2019. The decree is in relation to 1/3rd of the house in question. It has been stated that by 31.03.2019, the appellants will demarcate their portion with necessary construction. It has further been stated that the respondents should not obstruct in any manner nor would disturb the possession in respect of the said part of the property.

Mr. S.K.Dwivedi, learned counsel, appearing on behalf of the respondents, does not object to the offer of the appellants to hand over the possession of



the suit property by 31.03.2019. He, however, submits that the execution proceeding should be allowed only for the limited purpose of demarcation of the suit property so that there may not be any confusion if the appellants begin to make any construction over their portion of the house. Mr Dwivedi has further submitted that the decree holder will not insist on execution of the decree by giving physical possession over the suit property, in the meanwhile.

Considering the stand taken on behalf of the parties, this second appeal is disposed of with clear stipulation that the executing court shall proceed for demarcation of the suit property. The appellants shall not make any construction within the area of the suit property though they shall be at liberty to make construction in their portion of the house. By 31st of March, 2019, the appellants shall be obliged to hand over the possession of the suit property in favour of the decree holder.

The parties shall be at liberty to approach this Court by making appropriate application if, in the meanwhile, any dispute arising out of the undertaking



given by the appellants arises. The appellants will have
the similar liberty.

(Chakradhari Sharan Singh, J)

HR/-

U			
---	--	--	--

