

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1829 of 2017

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Sakil Khan, Son of Hazi Zahiruddin Khan, resident of Village- Baradih,
P.O.- Muradabad, P.S.- Agrer, District- Rohtas (Bihar).

.... Petitioner

Versus

1. Ekram Hussain Son of Late Ekbal Hussain,
2. Mustaque Hussain Son of Late Ekbal Hussain. Both resident of Village- Baradih, P.O.- Muradabad, P.S.- Agrer, District- Rohtas (Bihar).
3. The State of Bihar through the Principal Secretary, Department of Home, Bihar, Patna.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Raju Giri
Mr. Zaki Haider
Mr. Santosh Kr.Mishra, Advocates.
For the Respondent/s : Mr. Ajay Kumar Ac to Gp4

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 24-07-2018 Heard both sides.

The petitioner filed the suit for Specific Performance of Contract on the basis of oral agreement to sale a piece of land. The defendant appeared and filed petition for injunction against the plaintiff stating therein that he never executed any deed of agreement to sell the property to the plaintiff but the plaintiff is went upon to take possession of the land. The learned Sub-Judge- XI, Sasaram rejected the petition and on appeal preferred by the defendant, the learned District Judge, Rohtas, Sasaram allowed the Civil Misc. appeal and restrained the plaintiff from interfering into the peaceful possession of the defendant.



Learned counsel for the petitioner submits that the petitioner has got prima facie case for possession. The plaintiff was put in possession of the land on the basis of oral agreement but I find that the plaintiff claimed that defendant entered into oral agreement and after receiving part consideration money defendant put the plaintiff in possession of the land, but the defendant denied to have any oral agreement with the plaintiff. Defendant denied to have received any part consideration. No payment is made through any entrustment.

On facts aforesaid, I find that the defendant has got prima facie case to protect his possession from being dispossessed from the lands on such oral agreement having no documentary proof of such and the learned District Judge has rightly restrained the plaintiff from interfering into the possession of the defendant.

Thus, I do not find any merit in this Civil Miscellaneous petition. The same is dismissed.

(Prabhat Kumar Jha, J)

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