

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1041 of 2018**

Ranju Kumari, Wife of Manoj Kumar, Resident of Mohallah- Madhuriya,
P.S.- Laheri, District- Nalanda, at present residing at Mohallah- Sakri Gali,
P.S.- Alamganj, District- Patna (Bihar).

... .. Plaintiff-Petitioner

Versus

1. Sushila Devi, Wife of Raj Kumar Kanodiya @ Sri Raj Kanodiya,
2. Raj Kumar Kanodiya @ Sri Raj Kanodiya, Son of Late Baidhnath Kanodiya,
Both resident of Mohallah- Pua Gali, Jhauganj, P.S.- Chauk, Patna City,
District- Patna (Bihar).

... .. Defendants-Respondents

Appearance :

For the Appellant/s : Mr. Manoj Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-10-2018 Heard both sides.

The petitioner has filed this civil miscellaneous petition against the order dated 07.03.2018, passed by the learned Additional District Judge, 5th, Patna City in Miscellaneous Appeal No.55 of 2016 by which the learned Additional District Judge allowed the miscellaneous appeal setting aside the order dated 28.07.2016 passed by the learned Sub-Judge, 3rd, Patna City in Title Suit No.279 of 2014 by which the learned Sub-Judge granted injunction in favour of the petitioner-plaintiff and restrained the defendants not to interfere into the peaceful possession of the plaintiff.

Mr. Manoj Kumar, the learned counsel appearing on behalf of the petitioner submits that the plaintiff has already



constructed house over the land. The defendants are trying to dispossess the plaintiff from the land said to have been purchased by the defendants. The trial court granted injunction but the learned Additional District Judge without taking into consideration the facts that the plaintiff is in possession of the land set aside the order granting injunction and remitted the case to the court of Sub-Judge for fresh hearing on the injunction petition. It is submitted that the petitioner has already appeared before the Sub-Judge but the learned Sub-Judge has not passed any order on the injunction petition.

The learned counsel for the respondents submits that since the matter has been remitted with a direction to the Sub-Judge, the order does not require any interference.

Having considered the submissions of both sides and on perusal of the orders, I find that the learned Additional District Judge by the impugned order directed the Sub-Judge to hear both sides afresh and pass order on the injunction petition in accordance with law. In this view of the fact, I do not find any reason to interfere in the order.

Accordingly, this civil miscellaneous petition is disposed of with a direction to the Sub-Judge, 3rd, Patna City to pass order on the petition of the petitioner filed under Order



XXXIX Rule 1 and 2 of the Code of Civil Procedure within two months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

S.KUMAR/-

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