

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.760 of 2018

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Ravi Kant Pandey @ Ravi Pandey @ Chunchun Pandey Son of Ramprit Pandey, resident of Village- Newtapur, P.O.- Amwa, P.S. Bodh Gaya, District- Gaya.

... .. Appellant/s

Versus

1. Marsha Hospitality Pvt. Ltd. Through Its Power Of Attorney Holder Sri Falguni Sarkar and Ors
2. Sri Kishore C. Doshi, S/o Chamal Lal Doshi, resident of Plot No.- 2 Punjbai Lane, Voribali West Mumbai- 400092.
3. Sri Falguni Sarkar, S/o Sri Vibhuti Bhushan Sarkar, resident of Flat NO. 2133, 21st Floom, Royal Residency B Wingh, Chaibara Gali, Lal Bag, Mumbai- 400012.
4. Pushpa Devi, W/o Dinesh Pandey, D/o Late Ramprit Pandey, resident of Village- Gopalpur, P.O. P.S.- Sherghati, District- Gaya.
5. Madhuri Kumari, W/o Sri Munna Tiwari, D/o Late Ramprit Pandey, Resident of Village- Sinhaura, P.O. P.S.- Wazirganj, District- Gaya.
6. Smt. Baby Kumari, W/o Sri Pramod Ojha, D/o Late Ram Prit Pandey, resident of Village- Silanja, P.S.- Aurangabad, District- Aurangabad.
7. Smt. Kunta Devi, W/o Srik Ramprit Pandey.
8. Ram Jee Pandey, S/o Late Deonarayan Pandey.
9. Sheo Kumar Pandey, S/o Sri Ramjee Pandey,
10. Smt. Sushila Devi, W/o Sri Ramjee Pandey.
11. Bipin Kumar Pandey, S/o Sri Ramjee Pandeyh.
12. Jitendra Kumar Pandey, S/o Late Sachidanand Pandey.
13. Satyendra Pandey, S/o Late Sachidanand Pandey.
14. Most Rina Devi, Widow of Late Durga Saran Pandey.
15. Hirday Nand Pandey.
16. Nagmani Pandey,
17. Uttam Pandey.
18. Rashan Pandey, All 15 to 18 Sons of Late Durga Nand Pandey, All 7 to 18 resident of Village- Newtapur, P.S.- Amwa, P.S.- Bodh Gaya, District- Gaya.

... .. Respondent/s

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Appearance :



For the Appellant/s : Mr. Md. Waliur Rahman, Adv, Mr. Nishant Kumar
singh, Adv & Mr. Ravindra Kr Priyadarshi, Adv
For the Respondent/s : Mr. Gautam Kumar Kejriwal, Adv & Mrs.
Aishwarya Riti, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 18-11-2019

Heard.

This miscellaneous appeal has been filed for setting aside the order dated 29.06.2018 passed in Title Suit No. 110 of 2017/ 56 of 2017 passed by learned Sub-Judge-XII, Gaya by which the petition of plaintiff filed under Order 39 Rule 1 & 2 of CPC was rejected.

Plaintiff filed above title suit for declaration that registered sale deed dated 20.10.2010 and 04.05.2010 executed by defendant no. 4 to 16 in favour of defendant no. 1 are illegal, void and inoperative and not binding upon the plaintiff.

Suit land as detailed in Schedule-1 of the plaint was ancestral property and in joint possession of plaintiff and defendant no. 4 to 16 and sale deeds dated 26.10.2010 and 04.05.2012 were executed by defendant no. 4 to 16 without any consent and knowledge of plaintiff and without any legal necessity. Sale deed was executed showing plaintiffs as minors whereas they were major. Suit land is joint family property of plaintiff and defendant no. 4 to 16 and as such could not have been alienated without consent of plaintiff.



Defendant no. 1 appeared and filed its written statement that it is a company incorporated under the companies Act, 1956, which purchased the suit lands by way of registered sale deeds upon payment of consideration amount to the vendors and after purchase it is in possession over the purchased land and same have been mutated in its favour and is paying the rent against which rent receipts are being granted. Father of the plaintiff had given an affidavit that plaintiffs are minor and as such consideration money was accepted by their Mother and prior to registration of sale deed a public notice was made in local paper inviting objection from general public but no objection was raised by plaintiff. Sale deed has been executed by the karta of the joint family for legal necessity in which plaintiffs have been shown to be minor as such the sale deed is voidable and not void. The suit is barred by law of limitation.

The trial court on consideration of the rival submissions and perusing the materials available on record, did not find any *prima facie* case or balance of convenience in favour of plaintiff nor found plaintiffs to suffer any irreparable loss and rejected the injunction petition filed by plaintiff-appellant.

After hearing the parties and perusing the order passed by the court below and considering materials available on



record, this Court does not find any illegality or irregularity in the order passed by the court below, accordingly, this miscellaneous appeal is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2020
Transmission Date	NA

