

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.275 of 2019

1. Devbrat Kumar Patel S/o Late Anil Singh Resident of Village-Maheshua,P.S. Bbabhua,Dist.-Kaimur
2. Dharmshila Kuer W/o Late Anil Singh Resident of Village-Maheshua,P.S. Bbabhua,Dist.-Kaimur
3. Mamata Patel W/o Deovrat Kumar Resident of Village-Maheshua,P.S. Bbabhua,Dist.-Kaimur

... .. Defendants/Petitioners

Versus

Satyendra Narayan Singh @ Sachidanand Singh S/o Late Keshari Singh
Resident of Village-Maheshua,P.S. Bbabhua,Dist.-Kaimur

... .. Plaintiff/Respondent

Appearance :

For the Appellant/s : Mr.Jai Vardhan Narayan
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 25-04-2019

The defendants-petitioners have filed the present application under Article 227 of the Constitution of India for setting aside the order dated 03.12.2018 passed by the learned Sub-Judge-I, Kaimur at Bhabhua in Title Suit No. 866 of 2016 whereby the trial court has passed the order of status quo to be maintained by both the parties for the land in question on the petition filed by the plaintiff-respondent for passing of temporary injunction under Order 39 Rule 1 & 2 as also Section 151 of the Code of Civil Procedure (for short 'CPC').

2. The contention of the defendants-petitioners is that there was no prima facie case in favour of the plaintiff-



respondent and further there is no balance of convenience in his favour. The plaintiff-respondent has also not been able to show that he would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed.

3. The case of the defendants-petitioners is that the plaintiff-respondent's great grand-father's name was mentioned in the recent survey khatiyan. He had brought the suit for declaration of execution of sale deed with regard to the land recorded in the name of his great grand-father. He has also claimed possession on the disputed suit land and further that balance of convenience is in his favour and he has a prima facie case. He has pleaded that an irreparable injury would be caused to him if his prayer is disallowed. He also pleaded that the defendants-petitioners had been giving threat to dispossess him from the suit land.

4. The defendants-petitioners pleaded before the trial court that the injunction petition filed by the plaintiff-respondent is not maintainable in their favour on account of the fact that wrong contention regarding the actual possession over the land has been given before the court with a malafide intention to anyhow oust and dispossess them, who are in actual possession of the land in question.



5. However, after hearing the parties, since the trial court came to the conclusion that none of the parties has given any proof of his possession over the land in question and the possession on the land is not clear. Hence, it restricted both the parties to maintain status quo over the land vide impugned order dated 03.12.2018.

5. Having considered the contentions advanced on behalf of the petitioner as also the order impugned, I see no reason to interfere with the order. It is well settled position in law that grant of an interlocutory injunction during pendency of the proceeding is a matter requiring exercise of discretion of the court. The discretion whether or not to grant injunction has to be applied taking into consideration prima facie case, balance of convenience and whether irreparable injury is going to be caused if the prayer for interim injunction is disallowed. The object of the interim injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial.

6. Since the trial court has exercised its discretion and passed the order of status quo after looking into the entire facts and circumstances of the case in great detail and the order



impugned is neither without jurisdiction nor perverse, I am not inclined to interfere with the same in supervisory jurisdiction under Article 227 of the Constitution of India.

7. The application is dismissed.

(Ashwani Kumar Singh, J)

pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.04.2019
Transmission Date	

