

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.946 of 2017**

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1. Shatrudhan Yadav Alias Shatrudhan Prasad Yadav Son of Gajar Yadav,  
Resident of Village- Sakraul, Murli, Post Office- Murli, Police Station  
Shikarpur, District- West Champaran.

.....Appellant/Defendant No. 1

2. Ravindra Prapat Singh, Son of Late Bhup Narayan Singh, Resident of  
Village- Bahuari Post Office/Police Station Ram Nagar, District- West  
Champaran.

.....Appellant/Defendant No. 2

Versus

1. Pramod Kumar Singh
2. Pradeep Kumar Singh, Both sons of Late Kamaldeo Singh, Residents of  
Village- Paharpur Changur Post Office- Kuchaikot Police Station-  
Kuchaikot, District- Gopalganj at present Rampur, P.O. Murli, P.S.-  
Shikarpur, District- West Champaran.

... .. Plaintiffs/ Respondents

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**Appearance :**

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|----------------------|---|-------------------------------------------------------|
| For the Appellant/s  | : | Mr.Shiv Kumar Dwivedi, Adv                            |
| For the Respondent/s | : | Mr. Najeeb Ahmad, Adv & Mr.Lokesh Kumar<br>Singh, Adv |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**Date : 03-07-2019**

Heard learned counsel for the parties.

2. This miscellaneous appeal has been filed for setting  
aside the order dated 22.09.2017 passed by Sub Judge,  
Narkatiaganj, West Champaran in Title Suit No. 63 of 2017 by



which he has allowed injunction petition filed by plaintiffs-respondents under Order 39 Rule (i) & (ii) r/w Section 151 of the code of Civil Procedure.

3. Plaintiffs have filed the suit for declaration of right, title and possession over Schedule-3 land of the plaint which was sold by defendant no. 2 in favour of Defendant No. 1 on 21.01.2017 by four sale deeds with a further prayer to declare said sale deeds *void ab initio* and inoperative. Further case of the plaintiffs as disclosed in the plaint is that Ram Nandan singh was common ancestor of plaintiffs and defendant no. 2 who had two sons Mukh Narayan Singh and Bhup Narayan Singh and after the death of their father the property was partitioned between his two sons and they came in possession over their respective share.

4. Mukh Narayan Singh after partition from his brother Bhup Narayan Singh acquired many properties from 1940 to 1973 and died in the year 1973 leaving behind his widow Jileba Kuar and one daughter Jai Kumari Devi.

5. Plaintiffs Pramod Kumar Singh and Pradeep Kumar Singh are sons of said Jai Kumari Devi who is the wife of Kamal Deo Singh. After death of Mukh Narayan Singh his widow Jileba Kuar was looked after by her daughter Jai Kumari



Devi and she executed deed of gift dated 12.12.1979 in favour of her daughter in which defendant no. 2 is also a witness. Thereafter they remained in possession over the land and Jamabandi was also created and rent was paid and rent receipts was granted. Allegation is that defendant no. 2 executed four sale deeds in favour of defendant No. 1 which are part of the land of deed of gift of 12.12.1979. In a proceeding under Section 107 of Cr.P.C. the S.D.M. has also found possession of plaintiffs over the suit land which their mother got vide gift deed dated 12.12.1979.

6. A show cause was filed by defendant no. 1 that the lands have not been mutated in the name of plaintiffs and has also denied any partition between Mukh Narayan Singh and Bhup Narayan Singh in the year 1935. In the gift deed dated 12.12.1979, defendant no. 2 Ravindra Pratap Singh is not the witness but some other person has impersonated him as Ravindra Pratap Singh.

7. After hearing the parties, the trial court has found *prima facie* case to be made out by the plaintiffs and also has found that the balance of convenience is in favour of plaintiffs and they will suffer irreparable loss, if injunction is not granted.

8. After going through the order passed by the trial



court as well as considering the materials available on record and after hearing both the parties, this Court does not find any error or infirmity in the order passed by the trial Court.

9. Accordingly, this miscellaneous appeal is dismissed.

10. However, the trial court is directed to expedite the trial and conclude the same within a period of six months from the date of production/receipt of a copy of the order of this Court.

**(S. Kumar, J)**

ranjan/-

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