

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.519 of 2013

1. Manju Devi Wife of Late Madan Singh
 2. Sanjay Kumar @ Sanjay Kumar Singh
 3. Sanjeet Kumar Singh
 4. Santosh Kumar Singh Appellant Nos.2 to 4 are sons of Late Madan Singh
 5. Sandhya Singh
 6. Seema Singh
 7. Sushma Singh
 8. Sneh Prasad Singh
- All daughter of Late Madan Singh, All Resident of Mohalla- New Godown lane, Police Station- Kotwali, District- Gaya.

... .. Appellant/s

Versus

1. Indira Devi Wife of Late Ramji Lal Nakfofa
2. Jyoti Devi, wife of Late Gopal Lal Nakfofa
3. Minor daughter name not known of Late Gopal Lal Nakfofa under Guardianship of her mother Jyoti Devi, the natural guardian and next friend All Resident of Mohalla- Tilha Dharamshala, B ahuar Chowra, Police Station Civil Lines, District- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pramod Kumar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 04-02-2019

Heard learned counsel for the parties.

2. This appeal has been filed, under Order XLIII Rule-1(r) of the Code of Civil Procedure, against the order dated 04.06.2013 passed by the learned Sub-Judge-VI, Gaya, in Title Suit No.149 of 2008/202 of 2008.

3. The plaintiffs of the suit are appellants herein against the refusal of prayer for ad interim injunction by the trial Court by order dated 04.06.2013 passed in Title Suit No.149 of 2008.



4. The suit was for specific performance of contract to sale the immovable property. The case was that the father of defendants received part consideration money and handed over possession to the proposed purchasers. However, after death of the executant of the agreement, the legal heirs (defendants) refused to execute the sale-deed. Hence, the suit was filed.

5. The learned trial Court while refusing the prayer for injunction observed that an agreement to sale does not create any title in the properties, which is the subject matter of the sale; rather gives a right to the parties to the agreement to enforce the agreement through process of law. The prayer was for restraining the respondents to sale the suit property to anyone else. Even if the suit property is sold to anyone during pendency of the suit, the principle of lis pendence would apply.

6. After hearing the parties, I do not find any merit in this appeal for simple reason that no prima facie case or a case of irreparable loss is made out. Hence, this appeal is dismissed as devoid of any merit.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2019
Transmission Date	

