

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.605 of 2014

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Sudha Kumari D/o Sri Shiv Narain Singh Resident of Mohalla - Ezazi Lane
Vishwanath Niwas Motijheel , P.S. Town . District- Muzaffarpur.

... .. Appellant/s

Versus

1. Satya Narain Lal Son of Late Vishwanath Pd.
2. Sanjeev Kumar Lal Son of Sri Satya Narayan Lal
3. Ranjeet Kumar Lal Son of Sri Satya Narayan Lal All resident of Mohall-
Ayodhya Prasad Lane, Champaran house , Motijheel Muzaffarpur , P.S. -
Muzaffarpur, District- Muzaffarpur.
4. Badal Kumar Patra
5. Udai Kumar Patra
6. Lalit Kumar Patra All sons of Late Shankar Dass Patra All resident of
Mohall - Mohamadpur, Kazi Motijheel P.S. Muzaffarpur . Town , P.O. and
District- Muzaffarpur.
7. Smt. Chameli Patra @ Lalita Rani Patra , Wife of Sri Keshav Chandra
Patra , Aadakh D/o Late Shankar Dass Patra, resident of Mohalla - Motijheel
, P.S. Muzaffarpur Town, Distt. Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Arun Kumar, Adv
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 26-03-2019

Heard learned counsel for the appellant.

2. By the impugned order dated 19.06.2014 passed in
Partition Suit No.229 of 2010, the learned Sub Judge,-Vth,
Muzaffarpur has refused the prayer of the plaintiff-appellant to
grant ad interim injunction, restraining the defendant-
respondents from transferring or creating any encumbrance on
the suit property.



3. The learned court below observed that the plaintiff has got no prima facie case nor the plaintiff is going to sustain any irreparable loss in the event of refusal of the prayer.

4. The case and claim of the plaintiff is that the suit property was of Shankar Das Patra. Shankar Das Patra died leaving behind four sons, Shyam Kumar Patra (died issueless), Badal Kumar Patra, Udai Kumar Patra and Lalit Kumar Parta as well as a daughter Chameli Devi. The plaintiff is purchaser of share of Chameli Devi which was 1/4th of the joint property through registered sale deed dated 26.02.2010, whereas defendant 1st set/ respondent Nos.1 to 3 herein are purchasers from the three sons abovenamed of Late Shankar Das Patra. The three sons and daughter Chameli Devi are respondent Nos.4 to 7.

5. Factual position aforesaid would reveal that both sides, the plaintiff and respondent Nos.1 to 3 stands on same footing in the sense that both are purchasers from the rightful owners, hence, none can be restrained. Moreover, whether Chameli Devi was daughter of Shyam Kumar Patra and she was alive on the date of execution of sale deed in favour of the appellant is a disputed question of fact which is yet to be



adjudicated in the suit. Hence, in my view, no case of injunction in favour of the plaintiff is made out.

6. Accordingly, this appeal stands dismissed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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