

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1038 of 2017

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1. Md. Mansoor Alam
 2. Md. Kalimuddin,
 3. Md. Khurshid Alam,
 4. Anjum Pravez, All are sons of Late Md. Jahoor Alam @ Ecchu Mia,
 5. Halima Bano,
 6. Taslima Bano, Both daughters of Late Jahoor Alam @ Ecchu Mia,
 7. Savina Pravin, W/o Arshad Alam,
 8. Ubaish Ershad,
 9. Ashad Pravez,
 10. Naushim Saba, Appellant no. 8, 9, 10 are minor daughters of Late Arshad Alam under the guardianship of their mother Sabina Pravin, All are residents of Giriyak, P.S.- Giriyak, District- Nalanda, at present Mohalla- Indira Chauk, Main Road Rajganpur, P.S.- Rajganpur, District - Sundergarh, Orissa.

... .. Appellant/s

Versus

1. Inderdeo Prasad, Son of Late Mangal Yadav,
2. Vijay Kumar, Son of Ragho Yadav,
3. Sujit Kumar, Son of Prasadi Sao, All are residents of Giriyak, P.S.- Giriyak, District- Nalanda.
4. Md. Raja Karim,
5. Md. Gulam Bari,
6. Md. Shakil Raja, All are sons of Late Md. Ahmad Raja, Residents of Mauza- Giriyak, P.O. P.S.- Giriyak, District- Nalanda.
7. Mrs. Mehru Nisha, W/o Late Wase, Resident of Mohalla- Mogla Khar Town, P.S.- Nawada Sadar, District- Nawada.
8. Shamsa Begum, W/o Minhaz Alam, R/o Mohalla - Ansar Nagar Town, P.S.- Bundelkhand, District- Nawada.
9. Md. Iqbal, Son of Md. Yahiya, R/o Kasaw Tola Gaya Town, P.S.- Gaya, District - Gaya.
10. Md. Aftab, Son of Late Yahiya, Resident of Khelari, P.S.- Khelari, District- Ranchi.
11. Asharphul Nisha, W/o Late Md. Enam, R/o Amana, P.S.- Rajauli, District- Nawada.
12. Kamruddin Nisha, W/o Md. Shahid, R/o Village- Ansar Nagar Town, P.S.- Bundelkhand, District- Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Sharma
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 13-02-2019

Heard learned counsel for the appellants.

The plaintiffs-appellants brought Title Suit No.



197 of 2014 for declaring the two sale deeds said to be executed by defendant-respondent no. 4 to 6 in favour of defendant-respondent no. 1 to 3 in respect of land claimed by the plaintiffs-appellants. The plaintiffs-appellants further prayed for declaration of their title and possession on the lands which were subject matter of the suit i.e. which were transferred by the referred two sale deeds. The plaintiffs-appellants filed the petition for ad interim injunction restraining the defendants from affecting any kind of alienation and also to restrain from disturbing peaceful possession of the plaintiffs.

The learned court below examined, in details, the factual position and recorded that the plaintiffs have got no prima facie case for the reason that genealogical table appended with the plaint has been denied by the defendants. The defendants claimed the property as their own. The question of possession is also disputed as the purchaser-defendants are claiming possession over the suit land after purchase of the same. According to court below all these disputed facts are to be adjudicated at the time of trial and no prima facie case is made out.

Learned counsel for the appellants submits that defendant no. 4 to 6 are going to sell other lands of the plaintiffs



also for which injunction was sought for.

No interim injunction can be granted in respect of the property which are not subject matter of the suit. After perusal of the copy of the plaint and written statement produced, it is evident that most of the facts pleaded by the plaintiff have been denied by the defendants.

Hence, in my view also, there was no material for prima facie making out a case of ad interim injunction in favour of the appellants. Therefore, impugned order requires no interference. Accordingly, this appeal stands dismissed.

I.A. No. 01 of 2019 for ad interim injunction by this Court also stands disposed of accordingly.

(Birendra Kumar, J)

Kundan/Rajan

AFR/NAFR	N.A.
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