

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.161 of 2018**

**In
CIVIL REVISION No.133 of 2017**

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Jagdish Yadav Son of Late Kalar Yadav, Resident of Village- Parariya, P.S.
Madhepura, District- Madhepura.

... .. Petitioner/s

Versus

1. Sudama Devi
2. Sita Devi, Both Wife of Late Siyaram Yadav, Resident of Village Murho,
P.S. District- Madhepura.
3. Indradeo Mishra, S/o Late Tulakant Mishra,
4. Kandula Devi, wife of Tulanand Sah,
5. Bhala Sharma, Son of Late Sitaram Sharma.
6. Munni Lal Yadav, Son of Bhumi Lal Yadav.
7. Bindeshwari Yadav, S/o Late Bhagwat Yadav.
8. Amardeep Yadav, Son of Late Dinesh Kumar.
9. Bashisht Kumar, Son of Late Harinandan Yadav.
10. Bipin Kumar, Son of Late Dev Narauyan Yadav.
11. Mahadeo Yadav, Son of Late Mahavir Yadav.
12. Dheeraj Kumar, Son of Late Birendra Pd. Yadav. All resident of Village
Pariya, P.O. Godhela, P.S. District- Madhepura.
13. Bhola Das, Son of Late Feku Das, Resident of village Bhadoul, P.S. District-
Madhepura.
14. Mantu Kumar Son of Safo Yadav, Resident of Village- Saptiyahi, P.S.
District- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Adv. Mr.Shailendra Kumar Singh
For the Respondent/s	:	Mr. Ganpati Trivedi, Sr. Adv. Mr.Manoj Kumar

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

13 20-09-2022 Heard Mr. Rajendra Narain, learned senior counsel for

the petitioner and Mr. Ganpati Trivedi, learned senior counsel

for the respondents.



2. The defendant 2nd party is the purchaser from the defendant 1st party. A Title Suit has been filed by the petitioner bearing Title Suit No. 260 / 2014 for declaration of title over the suit land and also for declaration that the sale deed executed by defendant 1st party in favour of the defendant 2nd party dated 15-05-2014 with respect to the suit land is illegal, void and not binding upon the plaintiff.

3. The petitioner is aggrieved by the order dated 13.06.2017 passed in Misc. Appeal No. 08 / 2016 passed by learned lower appellate court i.e. District Judge, Madhepura by which the injunction granted by the trial court has been reversed.

4. The brief case of the petitioner-plaintiff is that the petitioner purchased 7 Bigha, 14 Katha of land in the disputed plot nos.- 467, 468 & 469 on 25/11/1969 by virtue of registered sale deed from Madan Murari Yadav. Further case of the petitioner is that 3 Bigha, 5 Katha of land has been purchased by the petitioner from Madan Murari Yadav *vide* registered gift deed dated 07/12/1979 and further 9 Bigha of land has been purchased by the petitioner *vide* registered sale deed dated 10-12-1969 by one of the Khatiyani *Raiyat* – Nihal Kana Ghosh @ Karuna Devi.



5. Learned senior counsel for the petitioner submits that the learned trial court came to conclusion that all the sale deeds pertain to plot nos. 467, 468 & 469 and were purchased much earlier. Total area of land purchased by the petitioner from plot nos. 467, 468 & 469 is 19 Bigha 19 Katha. Learned counsel submits that the learned trial court after taking into consideration the fact that petitioner is the purchaser of the suit land in the year 1969 and has been coming into possession over the same granted temporary injunction to the petitioner by restraining the defendant not to disturb the peaceful possession of the petitioner – plaintiff on the suit land till disposal of the suit. The order of injunction has been reversed by the lower appellate court by a one liner order “ upon consideration of the respective cases of the parties, it appears that the plaintiff has got no prima facie case in his favour”.

6. On the other hand, learned senior counsel appearing for the respondent - defendant submits that the defendant 2nd party are the purchasers of the suit land bearing plot nos. 467, 468 & 469 from the defendant 1st party, who in turn is the purchaser from Brahmanand Mandal and Bishun Kumar Mandal, who are admittedly the heirs of the recorded tenant. He next submits that the vendor of the defendant 2nd set purchased



the suit land from Brahamanand Mandal & Bishun Kumar Mandal, who are the co-sharer of Madan Murari Yadav. The purchaser is the defendant 2nd set who purchased the suit land by virtue of registered sale deed dated 15/05/2014 and the vendor of the defendant 2nd set i.e. defendant 1st set purchased the suit land by virtue of registered sale deed dated 9-5-1962 & 20/10/1981. The submission is that defendants have also been coming in possession over the suit land purchased by them and the total area purchased by the defendant 1st & 2nd set from their respective vendor is approximately 3.98 Acre out of plot nos. 467, 468 & 469. He further submits that the learned lower appellate court has given its finding in the impugned order at paragraph-6 and has come to the conclusion that all these transactions have been challenged in the suit for declaration as void *ab initio* and in this way it transpires that both the parties are claiming their right, title and possession over the suit land on the basis of transaction by document and this is the main issue which is to be decided by the trial court.

7. Both the parties agree that the total area of plot nos. 467, 468, 469 is approximately 69 Bigha out of which both the parties have purchased from their respective owner / recorded tenant to the extent of the area mentioned in their deeds. The



contention of the petitioner is that by virtue of sale deed executed in the year 2014 by the defendants some portion of the land purchased by the petitioner has also been transferred.

8. I have heard learned counsel for the parties. It appears that both the parties are claiming their right, title and interest upon the suit land on the basis of purchases made by them on one point of time or the other. Both the parties have claimed that they are in possession of the suit land since long. Upon taking into consideration the rival submissions of the parties it appears that both the parties are purchasers from the co-sharer or the *khatiyani raiyat*, and as such, in my opinion till the disposal of the suit lis between the parties should be maintained.

9. Accordingly, the impugned order dated 13.06.2017 passed in Misc. Appeal No. 08 / 2016 is modified to the extent that during pendency of the Suit both the parties shall maintain status quo existing as of today in respect of the Suit properties.

10. This civil miscellaneous application is disposed of.

praful/-

(Anil Kumar Sinha, J)

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