

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.654 of 2021

=====

Sushma Devi Daughter of Late Sheo Sharan Singh, and wife of Premchand Singh, Resident of Village - Bhewar Sikariya, P.S. - Jahanabad, Now Karuana, District- Jahanabad and also at Naihar Village - Allaudin Chak P.S. - Punpun, District- Patna, now shifted to 65, Shyam Nagar, Barkheda Pathani, VTC Huzur, Govindpura Bhopal, Madhya Pradesh Pin Code - 462022.

... .. Appellant/s

Versus

1. Sudhir Singh Son of Sri Jogendra Singh Resident of Village - Deokali, P.O. - Parthu, P.S. - Pipra, District- Patna.
2. Arvind Kumar Son of Late Ram Chandra Singh Resident of Village - Dularpur, P.S. - Punpun, P.O. - Lakhanpar, District- Patna.
3. Pawan Kumar Son of Sri Devendra Nath Singh Resident of Village - Paimar Ghat Barahiya Coal, P.S. - Punpun, P.O. - Paimar Ghat, District- Patna.
4. Shambhu Kumar Son of Late Mahendra Singh Resident of Village - P.O. - Suitha, P.S. - Parsa Bazar, District- Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr.D. K. Sinha, Senior Advocate
		Mr. Alexander Ashok, Advocate
For the Respondent/s	:	Mr.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 30-01-2023

Heard learned counsel for the appellant.

This appeal has been preferred for setting aside the order dated 17.11.2021 passed in Title Suit No.38 of 2021 whereunder an application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure (hereinafter referred to as 'the CPC') filed on behalf of the plaintiff-appellant has been rejected by the learned Sub-Judge, Masaurhi.



Learned counsel for the appellant submits that the appellant had executed a sale deed in respect of the property in question only for an area of two kathas, but later on when she got her passbook updated from the bank, she learnt that more than the consideration amount for two kathas had been deposited in her account through RTGS by different persons. Thereafter, it is alleged that the plaintiff suspected the sale deed dated 22.02.2021 and obtained the certified copy of the said sale deed wherefrom she came to know that the defendants have committed fraud in obtaining the sale deed dated 22.02.2021. The sale deed is showing sale of 91.8775 decimal of several plots.

Learned counsel for the plaintiff-appellant submits that the appellant had made out a prima-facie case, the balance of convenience also lies in favour of the plaintiff and in case the injunction is not granted she is likely to suffer irreparable loss and injury which cannot be compensated in terms of money.

On perusal of the impugned order, it appears that in the learned court below the application preferred by the plaintiff seeking injunction against the defendants was contested by placing on record the original written deed which was for purchase of 91.8775 decimal of land and the plaintiff and her



sons had put their signature on the deed. The learned court below has found that the plaintiff had thereafter executed the sale deed, therefore, the plaintiff is unable to make out a prima-facie case in her favour. The existence of a registered sale deed is admitted in this case, this Court finds that there is a presumption of validity of the execution of the sale deed which was registered by the Registrar in official discharge of his duties while carrying out the official work.

This Court finds no error in the impugned order. This appeal is dismissed.

It goes without saying that the observations made in the impugned order shall be treated only for purpose of the application under Order XXXIX Rule 1 and 2.

Let the hearing of the suit be expedited.

(Rajeev Ranjan Prasad, J)

arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	31.01.2023
Transmission Date	

