

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1026 of 2023

Dr. Tapeswar Prasad S/o Late Panchkauri Sao, resident of Mohalla-Ramna
Road, Sherghati, P.S. Sherghati, District Gaya.

... .. Petitioner/s

Versus

1. Dr. Shashi Ranjan Prasad S/o Dr. Tapeswar Prasad, resident of Mohalla GulaBaza Sherghati, P.s. Sherghati, District-Gaya.
2. Rishit Ranjan minor under guardian ship well-wisher and next friend of his father Dr. Shashi Ranjan Prasad, resident of Mohalla GulaBaza Sherghati, P.s. Sherghati, District-Gaya.
3. Amitabh Gupata @ Raja S/o Dr. Tapeswar Prasad, resident of Mohalla Ramna Road Sherghati, P.s. Sherghati, District-Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Kaushlendra, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 05-12-2024

Record taken up on mentioning being made on behalf
of the petitioner.

2. Heard learned counsel for the petitioner.

3. The petitioner is aggrieved by the orders dated
07.07.2023 and 08.08.2023 passed by learned Munsif,
Sherghati, Gaya in Title Suit No. 296 of 2022, whereby and
whereunder the petition filed by the petitioner under Order 7
Rule 11(a)(d) of the Code of Civil Procedure (in short 'the



Code') has been rejected and the injunction petition dated 09.12.2022 filed by the plaintiff/respondent no. 1 has been allowed.

4. The main contention of the learned counsel for the petitioner is that the suit before the learned trial court is not maintainable in the light of Section 27 of Welfare of Parents and Senior Citizens Act, 2007. Learned counsel for the petitioner further submits that since the property of the petitioner is involved, the Civil Courts have no jurisdiction and no injunction could have been granted.

5. However, from perusal of the provisions of Welfare of Parents and Senior Citizens Act, 2007 (in short 'the Act') as well the impugned order dated 07.07.2023, I am unable to convince myself that jurisdiction of the Civil Court is barred in granting permanent injunction under Specific Relief Act by institution of a suit before the court of competent jurisdiction. The Act primarily deals with the rights of senior citizens with regard to getting maintenance from their wards and other ancillary acts connected with such matters. If there is property dispute, the jurisdiction of the Civil Court has not been ousted by the Act. The learned trial court has also discussed the objection and passed the orders rejecting the claim of the



petitioner regarding maintainability of the suit. I find no reason to take a different view. If the suit is found to be maintainable, the order granting temporary injunction could not be assailed in a proceeding under Article 227 of the Constitution of India. It is an appealable order as the same has been passed under Order 39 Rule 1 & 2 of the Code. On both counts, I find no merit in the present petition and the same is dismissed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2024
Transmission Date	NA

