

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1068 of 2024

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Sudhir Kumar Son of Shri Ram Ekbal Singh Resident of Village and Post-
Amraha, P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. Kavita Rai Wife of Kamlesh Rai, Daughter of Late Suresh Singh Resident of C33, Krishi Nagar, Ashiyana Nagar, P.S.- Shashtri Nagar, District- Patna, Pin- 800025.
2. Snehlata @ Snehlata Sadab, Wife of Sayad Sadab Ahmad, Daughter of Late Suresh Singh Resident of Flat No.- 1102, Living Asense Lokhandwala, Township, Kandwali East Mumbai, State- Maharashtra, Pin- 400101.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Dubey, Advocate
		Mr. Kumar Gaurav, Advocate
For the Respondent no.1 :		Mr. Sarvadeo Singh, Advocate
For the Respondent no.2 :		Mr. Kumar Kaushik, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 09-12-2024

Heard learned counsel for the parties.

2. The petitioner is aggrieved by the order dated 13.08.2024 passed by learned Civil Judge Senior Division-5th, Danapur in Title Suit No. 228 of 2023 whereby and whereunder the learned trial court rejected the petition of the petitioner dated 04.07.2024 filed for extension of the *status quo* granted vide order dated 08.02.2024. Further prayer in the present civil miscellaneous petition has been made regarding hearing and disposing of the injunction petition dated 02.08.2023.

3. Learned counsel for the petitioner submits that the injunction petition dated 02.08.2023 has not been finally



disposed of and though while hearing the matter, the learned trial court vide order dated 08.02.2024 passed an order granting *status quo* with regard to the suit property for three months. However, when the application was moved for extension of the *status quo* order, the same was rejected by the learned trial court vide order dated 13.08.2024 holding that the application of injunction of the plaintiff was decided on 08.02.2024 and the order dated 08.02.2024 does not mention anywhere that injunction petition would be decided later on. Learned counsel further submits that the said order is factually incorrect as there has been no consideration of the contention of the plaintiff/petitioner in the order dated 08.02.2024 and purportedly from the said order it appears that the order has been passed for preservation of the suit property and to avoid multiplicity of the litigation and the *status quo* of three months was granted. Learned counsel submits that the learned trial court should be directed to pass a speaking order on the injunction application since there is no consideration of the ingredients of grant of injunction and by its very nature the order dated 08.02.2024 appears to be a temporary order only for three months.

4. Learned counsel appearing on behalf of the



respondent no. 1 submits that the plaintiff/petitioner has brought a fraudulent suit claiming the land of the mother of the respondents showing an agreement of sale on which the signature of the father of the respondents is forged. Learned counsel further submits that learned trial court in the order dated 13.08.2024 has mentioned that the injunction petition has been decided on 08.02.2024 and as on date no injunction petition is pending. Learned counsel further submits that in the application filed for *status quo* the prayer was only for extension till next date i.e., 12.09.2024 and the present petition is filed on the same dated i.e., 12.09.2024. So the present petition is not maintainable. Learned counsel further submits that the respondent has already filed an application under Order 7 Rule 11 of the Code of Civil Procedure (in short “the Code”) challenging the maintainability of the Title Suit and the next date for hearing the said application is 21.12.2024.

5. Learned counsel for the respondent no. 2 adopts the argument made on behalf of the respondent no. 1. Learned counsel however submits that the plaintiff/petitioner has no claim over the suit land and construction activities which were going on the suit land has been stopped by the orders of this Court dated 21.10.2024 and a great loss is being suffered by the



respondents. However, learned counsel fairly concedes that since the initial order granting status quo for three months has been passed without consideration of the *prima facie* case or balance of convenience or irreparable loss, the said order in true sense cannot be stated as a proper order. Learned counsel, however, submits that there is no *prima facie* case in favour of the plaintiff and even if the learned trial court is directed to pass a fresh order on the injunction application, no *status quo* ought to be granted to the plaintiff.

6. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

7. Bare perusal of the order dated 08.02.2024 shows there has been no proper consideration of the ingredients for disposal of the injunction application and the order dated 13.08.2024 holding that the application for injunction has been decided on 08.02.2024 appears to be erroneous since there is no proper disposal of the injunction application. If the matter is fixed for 21.12.2024 this Court would not like to go into the merits of the case and would straightway direct the learned trial court to dispose of the petitions filed by the plaintiff for injunction as well as the petition filed by the defendants/respondents challenging the maintainability under



Order 7 Rule 11 of the Code. Accordingly, the learned trial court is directed to dispose of the petition dated 02.08.2023 filed by the petitioner under Order 39 Rule 1 and 2 of the Code and also the petition filed by the defendants/respondents under Order 7 Rule 11 of the Code preferably on the next two dates of hearing and if any party adopts a dilatory tactics, the said party would be dealt with stern hand. Till 21.12.2024 *status quo* shall be maintained by the parties with regard to suit property. Thereafter, the learned trial court may pass any orders after hearing the parties.

8. With the aforesaid direction, the present petition stands disposed of.

9. Interlocutory application if any, in the present case, stands disposed of.

(Arun Kumar Jha, J)

anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.12.2024
Transmission Date	N/A

