

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.725 of 2024

Manoj Kumar Singh Son of Shiv Pujan Singh Resident of Village-Rajpur,
P.S.-Rajpur, Distt,-Rohtas.

... .. Petitioner/s

Versus

1. Surendra Nath Tiwari Son of Late Rambachan Tiwari Resident of Village-Rajpur, P.S.-Rajpur, Dist.-Rohtas, Presently residing at 993, new Bus Stand Old Traffic Settlement Khadagpur, Distt.-Medanipur (West Bengal)
2. Asha Devi Wife of Krishna Prasad Resident of Village-Rajpur, P.S.-Rajpur, Dist.-Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5
For the Respondent/s : Mr.Sanjay Kumar

CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

5 06-02-2026 The instant civil miscellaneous application has been filed for setting aside the order dated 21.05.2024, passed by learned Sub-Judge-III, Bikramganj in Title Suit No. 349 of 2023 whereby he has rejected the petition dated 12.10.2023 filed under Order VI Rule 17 and Order I Rule 10 read with Section 151 of Code of Civil Procedure.

2. Learned counsel for the petitioner submits that he has filed Title Suit No. 349 of 2023 for specific performance of a contract against the defendant, Surendra Nath Tiwari, on the basis of an oral agreement with respect to the suit property. He further submits that during the pendency of the suit, the defendant has transferred the suit



property to one Asha Devi, and he seeks to implead Asha Devi as a defendant in the suit for proper and complete adjudication of the matter.

3. Learned counsel appearing on behalf of respondent no. 2 submits that the proposed amendment is fit to be dismissed because the nature of the proposed amendment amounts to changing the nature of the suit because in the proposed amendment a relief has been sought for that the sale deed executed in her favour be declared as null and void.

4. From bare perusal of the plaint of Title Suit No. 349 of 2023, it appears that the plaintiff has sought relief for specific performance of a contract against Defendant No. 1. However, in the entire pleadings any date, time, or place regarding the alleged agreement to sell the suit property with Defendant No. 1 is not mentioned. It is an admitted fact that Defendant No. 1 is the rightful title-holder of the suit property, and as per submission of learned counsel for the respondent, in the absence of any stay order passed by a competent Court, he has validly transferred the suit property in favour of another party upon receiving valuable



consideration. Consequently, he cannot be restrained from doing so.

5. To buttress his arguments, learned counsel for the petitioner placed reliance in the case of **Manjit Singh & Anr. Vs. Darshana Devi & Ors.** in **Civil Appeal No. 13066 of 2024** decided by Hon’ble the Supreme Court.

6. The principle of aforesaid cited judgment will not apply in this case because there is no basis of the claim of petitioner over the suit property for want of any valid document muchless, the date and time of any agreement. Moreover purchaser of the suit land will put his leg in the shoes of his vendor, who is already contesting the suit as defendant.

7. Keeping in view the aforesaid facts, this Court comes to the conclusion that there is no merit in the aforesaid civil miscellaneous petition and accordingly the same stands dismissed.

(S. B. Pd. Singh, J)

Ankit Kumar/-

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