

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.79 of 2023

Siya Ram Singh S/o Late Shyam Bihari Singh, Resident of Village-
Nasratpur, Post- Laxmanpur, Police Station- Jandaha, District- Vaishali.

... .. Petitioner/s

Versus

1. Ramkishore Singh Son of Sri Balicharan Singh, Resident of Village-
Nasratpur, Post- Laxmanpur, Police Station- Jahdaha, District- Vaishali.
2. Sangita Kumari Wife of Sri ram Kishore Singh, Resident of Village-
Nasratpur, Post- Laxmanpur, Police Station- Jahdaha, District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Mritunjay Narain
For the Respondent/s : Mr.Bal Bhushan Choudhary

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

13 18-03-2026 Heard learned counsel appearing on behalf of both the
parties.

2. The instant application has been filed for the
following reliefs:-

*“(i). For quashing the order dated
22.03.2018 passed in Title Suit No. 256 of
2018 by learned Sub-Judge VIII, Vaishali at
Hajipur by which an order has been passed
to maintain status quo as well as the
petitioner has been restrained to execute any
document.*

*(ii). For quashing of the order
dated 19.10.2020 passed in Title Suit No.
256 of 2018 by learned Sub-Judge XVI,
Vaishali at Hajipur by which he has rejected
the application filed by the petitioner under*



order 39 Rule 4 of CPC.

(iii). For quashing of the order dated 13.09.2022 passed in Misc. Civil Appeal No. 07 of 2020 by learned Additional District Judge-V, Vaishali at Hajipur by which he has rejected the Misc. Civil Appeal No. 07 of 2020 filed by the petitioner.”

3. Learned counsel for the petitioner submits that he is defendant no. 2 in the Title Suit No. 256 of 2018 filed by the respondent/plaintiff and without giving any opportunity of hearing, as also without service of any summons for knowledge of the suit, the injunction order has been passed, which is illegal and against the spirit of law. The entire case record and order sheets nowhere reflect that summons were properly served upon Defendant No. 2 at the time of hearing of said injunction petition by the Trial Court. Both of the aforesaid impugned orders have been affirmed by the Appellate Court in Misc. Civil Appeal No. 07 of 2020.

4. The above argument of learned counsel for the petitioner is in consonance with the records and copy of order sheets filed by the petitioner. Impugned order has been passed without giving any opportunity of participating in hearing, which is against the law and procedure.

5. Keeping in view the aforesaid facts, and



considering the submissions made on behalf of learned counsel for the petitioner, the impugned order is set aside and the matter is remanded to the Trial Court for afresh consideration after hearing both the parties in accordance with law.

6. Petitioner i.e. defendant no. 2 in the Title Suit No. 256 of 2018, undertakes that he will not sell or alienate any part of the suit property i.e. a house in which he is residing till the disposal of the suit.

7. Accordingly, the present application stands allowed and all the three abovementioned impugned orders are hereby set aside.

8. Further, Trial Court is directed to dispose of the injunction petition within a period of one month from the date of receipt/production of this order, after hearing both the parties in accordance with law. Both parties are also directed to diligently co-operate in the hearing of injunction petition and trial also.

(S. B. Pd. Singh, J)

Ankit Kumar/-

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