2026:AHC:207913

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 11864 of 2025

Biraj Bhushan Sharma And Another

.....Petitioner(s)

Versus

Ashu Pankaj And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Jyoti Kumar Singh, Sr. Advocate, Vishakha Pande
Counsel for Respondent(s)	:	Neeraj Agrawal

Court No. - 9

HON'BLE ROHIT RANJAN AGARWAL, J.

1. This is a plaintiffs' petition. Plaintiffs-petitioners had filed Original Suit No.923 of 2022 seeking relief for cancellation of sale deed and also relief for permanent injunction was sought against defendants-respondents. In the said suit, an application 6-C was moved with a prayer that during pendency of suit, property in dispute be not transferred and no third party right would be created over the land as it is a joint property, and no partition has taken place between co-shares.

2. During pendency of suit, defendants no.1 to 4 have transferred the property in favour of respondents no.5 and 6. The trial Court allowed the 6-C application on 01.11.2022 and directed the parties not to create any third party right till decree of partition is passed. Against the order granting temporary injunction, a misc. civil appeal was preferred by defendants which has been allowed and the order granted by trial Court has been set aside.

3. Learned counsel for petitioners states that the appellate Court could not have passed such order setting aside the order granting injunction to the extent that no third party right would be created till the suit property is partitioned.

4. Sri Neeraj Agrawal, learned counsel appearing for defendants fairly submits that no injunction can be granted against true owner, but the order directing for not creating any third party right during pendency of the suit may be maintained.

5. I have heard counsel for the parties and perused the material on record.

6. From perusal of order impugned, I find that the appellate Court has exceeded its jurisdiction by setting aside the order as only the order not creating any third party right has been passed by the trial Court on 6-C application till the partition is made amongst the co-sharers.

7. It is a well settled principle of law that no injunction can be granted against true owner, but property needs to be safeguarded during pendency of the suit where it is an admitted case that the property is jointly held by the parties.

8. Considering facts and circumstances of the case, order passed by the appellate Court is hereby set aside.

9. Writ petition stands allowed. Parties are directed not to create any third party right over the property in question till the partition is made of suit property between the joint holders.

(Rohit Ranjan Agarwal,J.)

October 5, 2026
SK Goswami

Digitally signed by :-
SHIVAKANT GOSWAMI
High Court of Judicature at Allahabad