

In the Court of : **SUB-JUDGE-I, BAKHRI**
Present: MANOJ KUMAR SINGH, CIVIL JUDGE (Sr. Div.), BAKHRI, BEGUSARAI.
Title Suit No.-34/2018, CIS Reg. No.-34/2018



In the matter of-

Siyaram Sah

..... Plaintiff

BRBE220007242018

Vs.

Ramji Sah & Ors.

..... Defendants

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	24.07.26	Today the case record is fixed for order after hearing on petition dt.-08.12.23 filed on behalf of defendant U/S 94, 151 read with order 39 rule-1 and 2 of CPC and the rejoinder thereof filed on 05.02.24 on behalf of plaintiff. <u>ORDER</u> Ld. Counsel of the defendants pressed the petition dt.-08.12.23 and submitted therein that the plaintiff instituted the present suit garb of declaration of title and also confirmation of possession but the suit is really for recovery of possession over the suit land. Presented subsequently the deposition of the plaintiff is in going on and the order on the SKPC application is pending meanwhile and the plaintiff is demolishing the old tiles house of the defendant and building a new house on the disputed land. The plaintiff and defendant No.1 are brothers and just to maintainable congenial relationship in between themselves previously partitioned their entire land properties acquired through ancestor as well as in jointness. After marriage father of plaintiff and defendant No.1 (Biran Sah) had no personal and independent house as such Jago Sahu(Nana) in way manage some land from Ex-land for construction of residential house and alternately Biran Sah came in possession over kheshra No.110 of khata No.226 which was gair Majarua land. It is submitted that Biran Sahu constructed his residential house over kheshra No.110 near abut 10 dhurs. Biran Sah purchased measuring 13 kattha 08 dhur land of kheshra no.190 of khata No.10 by virtue of registered sale deed dated 24.11.1926 from Nira Devi and came in possession there on rightful owner Biran Sah died in your 1964 when then Siya Ram Sah was four years old boy. It is submitted after death of Biran Sah entire liability of joint family such as maintenance of family and marriage of four sisters and brothers. Govind Sah executed a deed of Gift 27.07.90 in favour of Sukumari Devi. It is submitted that Ramjee Sah and his wife Sukumari Devi had sufficient income and saving. Ramjee Sah first of all purchased land measuring 7 kattha 10 dhur in his own name from his personal income by virtue of register sale deed dated 11.04.1978. Ramjee Sah again purchased another land by virtue of registered sale deed dated 17.06.1979 in his own name and Siya Ram Sah. Ramjee Sah again purchased by virtue of registered sale deed 11.05.1984 in the name of Siya Ram Sah and also in the name of his three sons. Similarly Ramjee Sah	

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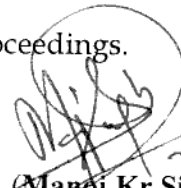
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	<u>Continued</u> 24.07.26	<i>'Permanent Injunction'</i>. The application filed under Order XXXIX Rules 1 & 2 CPC seeks the relief of permanent injunction, which is beyond the scope of the said provisions. Order XXXIX contemplates only grant of temporary injunction pending disposal of the suit, whereas permanent injunction can be granted only by way of a decree after trial under Section 38 of the Specific Relief Act. Hence, the application is not maintainable and is liable to be rejected. Therefore, the injunction petition filed by plaintiff Under Order-39, Rule-1,2 lacks the basic ingredients and hence it is fit to be rejected on the grounds aforesaid mentioned. Hence, considering the facts and circumstances of this case the plaintiff's injunction petition dt.-10.08.2023 is hereby <u>REJECTED</u> and accordingly the same is disposed of. <i>It is however made clear that the findings arrived and observations made hereinabove are only for the purpose of deciding this petition dt.-10.08.2023 and the aforesaid findings will not affect the merit of the suit at the time of its final adjudication.</i> Put up on for further proceedings.  (Manoj Kr Singh) Sub-Judge-I, Bakhri, Begusarai.	