

In the Court of Civil Judge (Sr. Div)-I, Kahalgaon, Bhagalpur
Present:- Akhilesh Kumar

T.S. 129/ 2023

Dinesh Singh & One other.....Plaintiffs

Vs

Most. Sunita Devi & Others.....Defendants

Order

Dated: 29-07-2025

Pairvi on behalf of plaintiffs have been filed by their Ld. Advocate. Defendant No. 01,02,03,06,07,08,14,15,16& 18 has also filed pairvi through their Ld. Advocates. Case called out. On call Ld. Advocates on behalf of both sides have appeared before the court. This case is fixed for order on petition dated 19-04-2025 filed by defendant No. 14 & 15 to vacate the order of status quo passed on 12-12-2024 by this court. The instant order dated 12-12-2024 has been passed by this court for two months or till appearance of all defendants which ever is earlier. On 05-02-2025, an application for extension of order of status quo has been filed by the plaintiffs U/S 151 of the Code of Civil Procedure and on 06-03-2025, the status quo has been extended till further orders. On 19-04-2025, on behalf of defendant No. 14 & 15, a petition for vacating the order dated 12-12-2024 has been filed which is on order today. Both sides have been heard on last date. In the instant petition dated 19-04-2025, it has been submitted on behalf of defendant No. 14 & 15 that, they have filed written statement on 06-06-2024. It has been submitted that order dated 12-12-2024 has been filed by the court only to protect the right of parties and plaintiff cause any delay in disposal of suit, defendants are at liberty to approach the court for vacating the instant order. The defendants No. 14 & 15 have prayed to vacate the orders on some grounds which are as under-

(A) According to order the status quo in the suit land to alienation in respect of suit property till two months, the aforesaid order has been passed on 12-12-2024, the two months have already passed so the aforesaid order should be vacated.

(B) All the defendants have appeared, so the order of status quo should be vacated.

(C) The defendant No. 13 & 14 are the purchaser of the land from the co-sharer through registered sale deed and he is in possession and

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also mutated his name in the sirista of the State of Bihar. The said order has been confirmed by D.C.L.R. Bhagalpur in MA No.202/023-24. It is admitted fact this defendant is cultivating possession over the purchase land and grown the different type of crops in different year. So he should not be restrain from grown the crop.

(D) The plaintiff has not shot any relief against the sale deed of defendant.

(E) Plaintiff in his petition has not stated about prima facie case, balance of convenience and irreparable loss.

(F) At the time of hearing of injunction petition non of defendant presence in court and participate the hearing of case and court has passed the order of status quo in absence of defendant.

(G) That order of status quo is part of injunction order is not final order.

In view of above facts and circumstances, it has been prayed that order of status quo may be vacated and final order of injunction be passed after hearing.

No rejoinder of this petition of vacation of status quo dated 19-04-2025 has been filed by the plaintiffs. Both sides have been heard.

Perused the record. On perusal of record. This is a case of partition filed in year 2023. The defendant No. 14 Md. Abu Nasar has purchased 20 decimals of land from Manoj Kumar Singh and defendant No. 15 Md. Khul has purchased 3 decimals of land from Amit Kumar Singh on 04-05-2022 and 14-05-2022. It has been rightly submitted by defendant No. 14 & 15 that, they are purchaser of the land from co-sharers through registered sale deeds. They have taken possession of the land and mutated their name in the sirista of State of Bihar. They are cultivating and possession over the purchased land. The plaintiffs have not shot any relief against the sale deed of defendants No. 14 & 15.

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On perusal of documents adduced on behalf of both sides as well as the sale deeds executed by Manoj Kumar Singh and Amit Kumar Singh in favor of Md. Abu Nasar and Md. Khul, it is clear that defendant No. 14 & 15 are bonafide purchaser of the land with consideration. All the proceeding of mutation have been done and they have taken possession and in possession of the land. Since the plaintiffs have not seek any relief against the sale deed executed in favor of defendant No. 14 and 15, it appears that plaintiffs have no objection with above sale deeds and they have only want to a partition decree for their entire land. Right of bonafide purchaser with consideration should be protected specially when the registered sale deed were not challenged both deeds are executed prior to filing of this case.

Under the above facts and circumstance, I find that at this stage no prima facie case is make out in favor of plaintiffs against these two defendants. Balance of convenience is also in favor of defendant No. 14 & 15 since they are bonafide purchaser with consideration. They have purchased a small piece of land, so no irreparable loss any way would be caused to the plaintiffs in this case. Therefore the order of status quo which had been passed only to protect the rights of parties without hearing of defendants and for two months or till appearance of all defendants which ever be earlier be liable to vacated. Accordingly order of status quo dated 12-12-2024 is hereby vacated. The petition of defendant No. 14 & 15 dated 19-04-2025 is disposed off accordingly. plaintiffs are directed to take necessary steps for appearance of absent defendants.

On 03-09-2025 for appearance.

Dictated



(Akhilesh Kumar)
Civil Judge (Sr. Div.)-I
Kahalgaon, (Bhagalpur)