

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

T.S. 220/ 2022

Shankar Sah @ Shankar Gupta.....Plaintiff

Vs

Gopal Sah & Others.....Defendants

Order

22-08-2025

Pairvi on behalf of plaintiff as well as defendants has been filed through their Ld. Counsels. Case called out. On call Ld. Counsels for the both sides have been appeared before the court. Record has been placed. Perused the record. This case is fixed for order on petition filed by plaintiff U/O 39 Rule 01 & 02 of the Code of Civil Procedure on 20-12-2024. Rejoinder has been filed by defendants on 16-04-2025. Both sides have been heard.

In the petition dated 20-12-2024, filed U/O 39 Rule 01 & 02 of the Code of Civil Procedure stating therein that the defendants are adamant to transfer the suit land in the hand of stranger by means of registered sale deed so they must be restrain to alienate the suit land by order of injunction. The plaintiff has claimed that, he has a good prima facie case for the purpose of injunction. He has also claimed that the balance of convenience also lies in favor of plaintiff and it has been submitted that, if the defendants will succeed to dispossess the plaintiff from the suit land and will alienate the property in future, the plaintiff will suffer irreparable loss and injury, if the injunction order is not granted in favor of plaintiff which can not be compensated by any relief. It is prayed that, the court be pleased to pass the order of injunction by restraining the defendants not to transfer the suit land in the hand of strangers and in the meantime status quo shall be maintained till the disposal of suit so that no any further complication be created in future related to suit land.

In the rejoinder filed by the defendants on 16-04-2025, it has been submitted that the petition filed by plaintiff dated 20-12-2024 U/O 39 Rule 01 & 02 of the Code of Civil Procedure is not maintainable either in law or facts. The defendants have submitted that, they are not adamant to transfer the suit land in the hand of strangers by means of registered sale deeds and they are not disturbing the possession of plaintiff intentionally to making the construction over the part of suit land. The defendants

Continue

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Present:- Akhilesh Kumar

T.S. 220/ 2022

Continued
22-08-2025

have refused the submission of plaintiff that, he has strong prima facie case, balance of convenience in his favor and regarding any irreparable loss to the plaintiff. It has been submitted that, the plaintiff has made the above submission because without making such submission the petition could not be allowed. It has been further submitted that the instant petition filed by plaintiff is knowingly and deliberately only for the intention to harass the defendants and put the defendants in pressure for wrongful gain. It has been submitted that the plaintiff has no any right title interest and possession over the suit land. It has been prayed that, the petition filed by plaintiff be rejected.

After hearing of both sides, considering the facts, circumstances and evidences adduced by the plaintiff at the time of filing of this suit and also on perusal of plaint and written statement filed by defendants I find that this is a simple suit of partition and sale deed No. 4347 dated 19-10-2020 executed by Most. Rita Devi in favor of defendant 2nd party Dheeraj Kumar is not binding upon the plaintiff due to such land is undivided properties of plaintiff. The above sale deed has been executed by Most. Rita Devi in favor of one Dheeraj Kumar who is defendant 2nd party on 19-10-2020 which is prior to institution of this suit. The submission that the defendants are adamant to transfer the suit land in the hand of strangers by means of registered sale deed has no any credible ground. The plaintiff has no any credible ground or evidence in support of his statement that the defendants are willing or adamant to transfer the suit property. At this stage, it appears that the suit land is joint family property which is subjected for partition in this suit. I do not find any such situation on the basis of evidences available on record that defendants are willing to transfer the suit land. There are several defendants in this suit. All the defendants have appeared in this case and filed their written statements. All the defendants are aware of the consequences of a sale deed executed during the pendency of suit.

Under the above facts, circumstance and discussion I find that, the instant petition filed by plaintiff is without any basis or credible information. The petition filed in a formal manner. There is no any danger over suit property. The defendant 1st party are also share holders in suit land and they have interests in suit land. Therefore prima facie case and balance of convenience is not only in the favor of plaintiff. Thus, the petition filed by plaintiff U/O 39 Rule 01 & 02 of the Code of Civil

Continue

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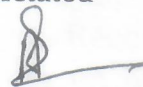
T.S. 220/ 2022

Continued
22-08-2025

Procedure on 20-12-2024 is not worth considerable. The petition discussed above is hereby rejected. The instant petition and rejoinder thereof are disposed off accordingly without cost.

On 10-11-2025, for proceeding under Section 89 of the
C.P.C.

Dictated



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