

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

Title Suit No. 264 of 2023

Arvind Sah & Others.....Plaintiffs

Versus

Mukesh Sah & Others.....Defendants

Order

Dated: 24-04-2026

Pairvi on behalf of plaintiffs has been filed through their Ld. Counsel. Defendants are absent. Case called out. On call, Ld. Counsel for the plaintiffs has appeared before the court. Case record has been produced. Perused the record. This case is fixed for order on petition dated 24-02-2025 filed by plaintiffs U/O XXXIX rule 1(a), 1(b) & 1(c) of The Code of Civil Procedure. Rejoinders/Show cause has been filed on behalf of defendants on 05-01-2026. In the instant petition the plaintiffs have submitted that, the plaintiffs have filed this suit for partition and get relief as 4 ansh share of suit land and defendants are entitled to get 2 ansh share. It has been submitted that, all plaintiffs were in physical possession over suit land but defendants forcibly dispossess them on 21-02-2025 hence it is necessary to file present injunction petition for restraining to the defendants from suit land which belongs to the plaintiff. It has been submitted that the plaintiffs are bonafide owner of disputed suit land, balance of convenience, prima facie case and irreparable loss aforesaid theory of C.P.C. are in favour of plaintiffs. The plaintiffs have prayed to pass an order to maintain status quo to both parties regarding suit land.

24.04.2026

In rejoinder/ Show cause dated 05-01-2026 the defendants have submitted that, the suit as brought is not maintainable and there is neither unity of title nor joint possession of the parties upon the suit land. It has been submitted that, both parties have partitioned their land years ago and they are in possession on their respective part and in possession and cultivation. It has been submitted that, parties have constructed their houses upon the suit land and living in their homes. The defendants have denied 4 ansh share of plaintiffs over the suit land and also denied that they have never dispossess the plaintiffs. It has been submitted that, the injunction petition does not clarify on which piece of land the relief of injunction seek for. It has been submitted that, there are 13 plaintiffs and 6 defendants who are residing in their houses and in their respective shares over the suit land and if an order of injunction passed over the suit land it will cause great inconvenience to both parties and therefore, to grant an order of injunction is not just full under above situations. It has been prayed that, the injunction petition be dismissed in the interest of justice.

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Plaintiffs have been heard. Defendants did not appeared for hearing. Perused the revisional survey khatian of the khata No. 19 and all respective khesras containing in khata No. 19 and genealogical table of the plaintiffs and defendants. This is a suit for partition and every side have their certain respective share and it appears from the revisional survey khatian that, the plaintiffs are entitled to get 4 ansh whereas the defendants are entitled for 2 ansh share over the suit land. I find that, the claim of plaintiffs for partition of their respective share are tenable at the present stage on the basis of pleading and revisional survey khatian. There is a clear prima facie case in favour of plaintiffs and the defendants did not filed any document of partition which has claimed to be taken place among the parties by the defendants. As for as the submission of defendants that, both sides are residing over the suit land by making their homes and are in cultivating possession of their respective shares are concerned, it is believable that both sides are residing and in possession of their shares but no formal partition of the suit land is evident. The plaintiffs have demanded simply that the both sides are directed to maintain status quo. They have not demanded an order of status quo only against the defendants but they also want an order of status quo upon them. It reflects that the plaintiffs are with clean hand. However both sides are residing and in possession over the suit land and an order of status quo can cause inconvenience in enjoyment of lands over which they are in possession therefore, order of status quo can not be passed but in the interest of justice both sides are required to not alienate or transfer the suit land.

Therefore, the petition filed by plaintiffs on 24-02-2025 is considerable and hereby allowed. Both sides are directed to not transfer or otherwise alienate or change the nature of suit land but they can use and enjoy the land in their possession. The petition discussed above and rejoinder thereof are disposed off accordingly. Plaintiffs are directed to comply the order dated 03-11-2025 and make necessary amendments regarding recovery of possession in relevant places of the plaint.

On 06-06-2026, both sides are directed to remain present physically for proceeding under 89 of The Code of Civil Procedure.

Dictated


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

Date of Order - 24.04.2026

Date of Reserving Judgment/Order - 07.04.2026.

Uploading Date - 25-04-2026

Uploaded by - Nagmani Neelam.