

IN THE COURT OF SUB JUDGE I, JAGDISHPUR, BHOJPUR AT ARA

Title Suit Case No.: 178/2021

CIS No.: 178/2021

Date of Order or Proceeding	Order with the Signature of the Court	Office action taken with
02.03.2023	<p>Both sides have filed their hazri. Today the record is fixed for order on plaintiff's petition dated 06.07.2021 filed under Order 39 Rule 1 and 2 and Section 151 of Code of Civil Procedure and rejoinder dated 31.01.2022.</p> <p>Heard Ld. Advocate of both sides and perused the case record. From the perusal of case record it transpires that plaintiff has submitted his injunction petition that the suit land of this case is of defendant no. 6 to 12 from wick plaintiff and defendant no. 15 has purchased some land and for the rest land which mentioned in schedule B of the plaint permission and illegal proceeding going on. Further plaintiff submitted that plaintiff and defendant no. 4,5 father of defendant no. 13,14 late Chandrama Singh have sold out the entire land of village Itwa and Pahari Pipraand Tetaria and now defendant no. 4,5 alongwith defendant no. 13,14 has no share in the suit land mentioned in schedule A and B of the plaint. Further plaintiff submitted that defendant no. 4 and 5 has sold the land of schedule B to the defendant no. 1,2 and 3 without any title and defendant no. 4 and 5 is trying to sold out the rest land of schedule B and defendant no. 1 Ka to 3 are trying to dispossession the plaintiff forcefully. Further defendant submitted that prima facie case and balance of convenience is in favour of plaintiff and injunction order will not be passed in that case plaintiff will have to suffer from irreparable loss and prayed for passing the injunction order against defendant no. 1,2 and 5.</p> <p>Defendant no. 1,2 and 5 appeared and opposed the said case by the way of filing their rejoinder dated 31.01.2022 and submitted that injunction petition of plaintiff is not maintainable either in the eye of law or facts. Further defendant submitted that the plaintiff has not complied the provision of Order 39 Rule 3Ka of the Code of Civil Procedure which is mandator7y therefore, ex-parte injunction order passed against the defendants is now became effectless. Further defendant submitted that plaintiff has filed this suit for declaration that defendant no. 4,5,13 and 14 have no title in the suit land mentioned in schedule B of the plaint alongwith for the declaration of two sale deed dated 27.03.2021 and 18.12.2020 which is executed by the defendant no. 5 in favour of defendant no. 3 and defendant no. 4 in favour of defendant no. 1,2,3 void alongwith other relief. Further defendant submitted about the</p>	

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genealogical table given in the plaint on page no. 11 and submitted that in the genealogical table Matar Rai and his wife Laxmina Devi and his son Chandrama Singh shows and a part from them two hypothetical daughters of Matar Rai namely Shyam Piyari Devi and Ram Piyari Devi shown in the genealogical table. Further defendant submitted that Matar Rai and Laxmina Devi had only one son Chandrama Singh and Matar Rai has not any daughters therefore, in the Ara Buxar National Highway the entire compensation against the acquired land has been paid to the Chandrama Singh on the basis of land possession certificate and genealogical certificate submitted by Chandrama Singh and non made any claim against the said compensation amount and now plaintiff has filed this false suit by showing two hypothetical daughters of Matar Rai. Further defendant submitted that plaintiff has created forged document in the name of Ram Piyari Devi and Shyam Piyari Devi of sale deed from which plaintiff and defendant no. 15 has not acquired any title. Further defendant submitted that only to grab the share of four sisters of plaintiff, plaintiff has filed this suit, therefore, prima facie case is not favour of plaintiff.

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Further defendant submitted that there was no any daughter of Matar Rai namely Ram Piyari Devi and Shyam Piyari Devi and plaintiff created forged document of sale deed in the name of his wife only to create the evidence from which neither plaintiff nor defendant no. 15 acquired any right title or possession. Further defendant submitted that the amount compensation deposited inGramin Bank branch Rani Sagar in the name of Chandrama Singh which has been withdrawn by the plaintiff, after the death of Chandrama Singh without the consent of his four daughters. Further defendant submitted that the defendant no. 5 and 4 purchased the land from the defendant no. 3 which allotted in the share of defendant no. 3 in the oral partition for which they have paid Rs. 2,30,000/- as a consideration amount for the land situate in village Pahari Pipra Thana no. 52 Khata no. 17 plot no. 22 area 6.5 decimal and other 13 decimal and of said plot number has been purchased after the paying the consideration amount 4,55,000/- and after the payment the consideration amount vendor executed the sale deed and the name of vendees also mutated in Circle Office, Bihiya. Further defendant submitted that the husband of Manju Devi is working in Arunachal Pradesh and defendant Manju Devi after inquiry about the disputed land and genealogical table issued by the Sarpanch, Gram Kachahry, Sheopur

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Title Suit Case No.: 178/2021

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purchased the said land. Further defendant denied the statement of plaintiff made in their petition prayed for dismissing the said injunction petition.

Heard Ld. Advocate of both side and perused the case record. From the perusal of case record, it transpires that plaintiff has filed the suit for the declaration that defendant no. 4,5,13 and 14 have no title in the suit land mentioned in the schedule B of the plaint with further declaration that two sale deeds dated 18.12.2020 executed by defendant no. 4 in favour of defendant no. 1,2,3 and sale deed dated 27.03.2021 executed by the defendant no. 5 in favour of defendant no. 3 is a void document with the relief of injunction. On the perusal of case record it also transpires that after the institution of suit notice issued on the defendants and defendant no. 4 and 3 appeared on 06.01.2022 and they have filed show cause cum rejoinder on dated 31.01.2022 defendant no. 5 A BC and defendant no. 2,3, and 6 to 12 also appeared. On the perusal of case record it transpires that appearance of defendant has not completed as yet. On the perusal of case record, it transpires that the plaintiff claims his title and possession over the suit land saying that Matar Rai was their common ancestors and had one son Chandrama Singh two daughters Shyam Piyari Devi and Ram Piyari Devi and Chandrama Singh had one son Kamalesh Kumar Singh and four daughters Sushila Devi, Urmila Devi, Sheela Devi and Dewanti Devi. Further plaintiff submitted in the plaint that after the death of Matar Rai and his wife Laxmina Devi their entire khatiyani land inherited by his only son and two daughters as per their 1/3th share and thereafter for the marriage of daughters of Chandrama Singh and family expenditures Chandrama Singh sold his 1/3th share. Further plaintiff submitted that he has purchased the share of Ram Piyari Devi and Shyam Piyari Devi and came into the possession over the suit land through registered sale deed and defendant claims that he has purchased the land from the daughters of Chandrama Singh and plaintiff claims that he has purchased the land from the daughters of Matar Rai. Both sides also claiming their own possession over the suit land.

Dictated

Sub Judge- I,
Jagdishpur, Bhojpur.

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