

IN THE COURT OF Civil Judge (Sr. Div.)-I, PIRO, BHOJPUR
Title Suit No. 19 of 2016

Dadan Singh

.....Plaintiff

Versus

Nagendra Singh and others

.....Defendants

Sl. no.	Date of order of proceeding	Order with signature of the Court
1	2	3
09-03-2026	<p style="text-align: center;"><u>ORDER</u></p> <p>Attendance has been filed on behalf of the parties through learned counsels. The instant record has been put up for order today over petition dated 18-10-2024, filed on behalf of plaintiff under Order 39 Rules 1 & 2 read with Section 151 C.P.C against defendants. The defendant no. 5 (Bihar Sarkar) has filed his rejoinder dt. 05.08.2025 to the said petition of the plaintiff against the plaintiff's prayer. Rest other defendants have been debarred from filing rejoinder to the said petition.</p> <p>It has been prayed on behalf of plaintiff that the defendants be restrained from getting his dispossessed from the disputed land and further that defendant Bihar Sarkar should be restrained to demolish the existing structure or be restrained from settling the same.</p> <p>It has been stated that the present suit has been filed by the plaintiff for declaration of this title over the scheduled land on the ground that the old khatiyana was in the name of ex-landlord Solono Estate and the nature of land was <i>gair mazarua malik</i>. The said Solono Estate settled that land in the name of Vyas Singh; the grandfather of the plaintiff and since then they are coming in possession over the same. After his death, the possession of the plaintiff and defendant 2nd party continue over the said land being his legal heir. But when the new survey was published then the <i>raiya</i> as Sarv Sadharan was wrongly recorded with regard to the land bearing khata no. 1056, khesra no. 3605 and 3607 having area 21 and 16 decimals resp. In the possession column, the forceful possession of Vyas Singh was shown. Defendant no. 5 has admitted in his w.s. that because of the settlement of Solono Estate on disputed land, <i>pakka makan</i> and other things have been constructed, which is the case of illegal encroachment. On 20.09.2024, the government employee was taking measurement of the disputed land and thus, the plaintiff realised that Bihar Sarkar is trying to settle the disputed land and intending to dispossess the plaintiff. The plaintiff is having title and possession. The plaintiff has got balance of convenience and may suffer irreparable loss if injunction is not granted. On these grounds, he prays to issue injunction on the disputed land.</p> <p>The rejoinder has been filed on behalf of defendant no. 5 (Bihar Sarkar) on 05.08.2025 with a prayer to reject the petition filed on behalf of plaintiff on the grounds that the petition dated 18.10.2024 is malafide and not maintainable in the eyes of law. It is further submitted that the said disputed land got vested in 1956 in favor of Bihar Sarkar and it is wrong to say that the plaintiff is in possession and is having <i>pakka house</i> over it. The plaintiff has wrongly asserted that he is having possession over the disputed land only for the purpose of the injunction petition and he has no prima facie case and balance of convenience is also not in favor of plaintiff. On these grounds, he prays to reject the petition filed on behalf of plaintiff.</p> <p>Heard the arguments put forth by the ld. counsel of both sides and perused the case record. It is an established principle of law that before passing an order over a petition of injunction, the Court has to look into three important ingredients i.e. 1. Prima facie case 2. Balance of convenience and 3. Irreparable loss to the parties. The absence of any of the three ingredients will cause dismissal of the petition for injunction. The burden of proving the same is upon the petitioner-plaintiff.</p> <p>Prima facie case : Prima facie case is a substantial question raised bona fide which needs investigation and a decision on merits. Satisfaction of court that there is a prima facie case by itself is not sufficient to grant injunction, as opined by Hon'ble Supreme Court in case of Dalpat Kumar vs. Prahlad Singh, AIR 1993 SC 276. While pressing the petition, the learned counsel on behalf of plaintiff submitted that he has a good prima facie case in his favour, hence balance of convenience is also his favour. If the defendants are not restrained from dispossessing from the land, the plaintiff will be put to irreparable loss which could not be compensated in terms of money, hence the prayer of the plaintiff be allowed and the order of interim injunction be passed in favour of the plaintiff, restraining</p>	

the defendant from changing the physical feature or dispossessing him from the suit property till the disposal of the suit. It is further submitted that the schedule property belong to plaintiffs and defendants do not have right over the suit land and hence, prima facie case and balance of convenience is in favour of plaintiff.

On the other side the learned counsel of defendants stated in their rejoinder that plaintiff is not in possession of suit land. Hence, there is no prima facie case in favour of plaintiff. And thereby no balance of inconvenience to the plaintiff. While determining whether the prime facie case is made out, the relevant consideration is whether the evidence led by the plaintiff, it is possible to arrive at the conclusion in question and not whether that was the only conclusion that could be arrived at, on that evidence in this case there is question to be decided by this Court on the basis of evidence of plaintiff and parties. Thus, there appears a prima facie case is in favor of the plaintiff.

Balance of Convenience:- The balance of convenience must be in favor of grant of injunction. The court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief of injury which is likely to be caused to the parties if the injunction is refused and compare it with that what is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury, the court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued, as observed by Hon'ble Supreme Court in case of **Maria Margarida Sequeira Fernandes vs. Erasmo Jack De Sequeira**, (2012) 5 SCC 370.

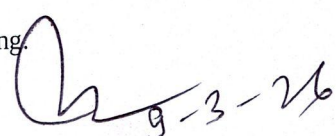
Balance of convenience implies that the comparative troubles or inconveniences which is likely to arise from the issuance of injunction are lesser than the ones arising from withholding the injunction.

Thus, on the basis of materials available on record it appears that the comparative mischief, hardship or inconvenience which is likely to be caused to the plaintiff by refusing the injunction may not be greater than which is likely to be caused to the present defendants. The plaintiff has been unsuccessful in proving his possession over disputed land, as there is no statue of the disputed land before this Court. Thus, it appears that the balance of convenience does not lie in favour of plaintiff.

Irreparable Loss :- Here it is the duty of the plaintiff to prove that he will suffer irreparable loss if injunction is not granted. In the case of *Dalpat Kumar vs. Prahlad Singh*, (1992) 1 SCC 719 Cardinal principle for temporary injunction was considered where the court observed that the party seeking injunction will incur "irreparable injury" to the party seeking relief as a result of non-interference of court and that there is no other remedy except the injunction and the same is needed by the party to protect themselves from the apprehended injury or dispossession. Irreparable injury means the one that cannot be compensated by the way of compensation. The Court must exercise sound judicial discretion while granting or refusing the temporary injunction. The plaintiff could not prove that in what manner, they may suffer irreparable loss which may not be quantifiable and hence, they could not prove that they may suffer irreparable loss. This petition is pending since October, 2024 but till date the plaintiff could not adduce any material to prove the allegations as stated in this petition.

This Court does not find any merit in his petition as the whole petition of the plaintiff is based on a supposition and assumption and therefore, the same is hereby rejected. The parties are directed to get the suit decided at the earliest and will co-operate in speedy disposal of the suit.

Put up on 02.04.26 for further proceeding.


Civil Judge (Sr. Div.)-I
Piro at Bhojpur