

District: Bhojpur

In The Court of Sub-Judge I, Piro

Title Suit no. - 156 of 2021

Order

01/02/2023: There is attendance of the plaintiff and defendant through their Ld. Counsel.

On call Ld. Counsel for the plaintiff and defendant appeared. Ld. Counsel for the plaintiff appeared and moved his petition dated 21/09/2022 filed under Order 39 Rule 1 and 2 of the C.P.C. Ld. Counsel for the plaintiff submit that the plaintiff has filed this suit for partition. The defendant has filed written statement dated 29th June 2022. The plaintiff is trying to build house on the distributed land of khata number 109/126 plot number 521/271 area two decimal. Prima facie case and balance of convenience is in favour of the plaintiff. If nature of the disputed property is changed the plaintiff will have to suffer irreparable loss. The learned Council for the plaintiff further pleaded that injunction is necessary to avoid the multiplicity of the suit also. If injunction is not granted, it will be sold and converted into such a situation that the plaintiff's share cease to exist

Ld. Counsel for the defendant opposed the petition and submits that there is an old house at the disputed property in which the defendants have been living and the defendants are not doing any new construction. According to the statement of the plaintiff, the defendants are trying to build a new house. This is just a statement based on probability. Prima facie case and balance of convenience is not in favour of the plaintiff. The entire statement of the plaintiff is baseless and fabricated.

Heard Ld. Counsel for both parties on petition dt.21/09/2022 and its rejoinder dt.19.10.2022 and perused the record. After perusal of the same this court finds that the plaintiff has filed this suit for partition against her father (defendant). The defendant has appeared and filed his W.S. dated 29/06/2022 and has stated that the plaintiff is his daughter from her second wife Parvati Devi. He had one son namely Ramesh Ram from his first wife namely Jhanmuna Devi. His son Ramesh Ram has died leaving behind him his wife and two daughters Seema Devi, Punita Kumari and one son Satyanarayan Paswan. The defendant

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Chahlak Ram has not been partitioned with his brother Ramashray Dusad. Neither of Ramashray Dusad nor wife and children of late Ramesh Ram have been made parties to the suit. The plaintiff has filed this suit for partition on the property and admittedly in the disputed property there is share of defendant also. In such circumstances this court does not find prima-facie case and balance of convenience in favour of the plaintiff. Therefore, petition dt. 21.09.2022 filed under Order 39 Rule 1 and 2 of the C.P.C. is ordered to be rejected.

Put up on.....for plaintiff's evidence.

(Aditi Gupta)
Sub Judge I
Civil Court Piro