

IN THE COURT OF Civil Judge (Sr. Div)-I, PIRO, BHOJPUR
Title Suit No. 289 of 2024
Satyadev Chaudhary & Others.....Plaintiffs
Versus
State of Bihar **.....Defendant**

Sl. no.	Date of order of proceeding	Order with signature of the Court
1	2	3
05-05-2025	The instant record has been fixed for order today over petition dated 24-12-2024, filed on behalf of plaintiff under Order 39 Rules 1 & 2 read with Section 151 C.P.C against defendants. No rejoinder has been filed on behalf of defendants to the said petition of the plaintiff. It is stated in the petition dated 24-12-2024 that the suit has been brought by plaintiff for declaration of title over Scheduled I of the plaint on the ground that they are having title and possession over the land for last 70 years and they are ploughing the land but the defendants want to construct sports field forcefully. The plaintiff has got prima facie case and balance of convenience and will suffer irreparable loss if the defendants make construction of any kind. On these grounds there is a prayer on behalf of plaintiff to issue temporary injunction over Scheduled I of the plaint restraining the defendants from interfering with the possession of plaintiff. No rejoinder has been filed on behalf of defendant (Bihar Sarkar). Heard the learned counsel for the plaintiff and learned A.G.P at length and perused the case record. The plaintiff has filed this suit with prayer to declare title over scheduled 1 of the plaint. As per case of the plaintiff, the survey <i>khatiyani</i> of land relating to Thana no. 105 is in the name of defendants (Bihar Sarkar <i>Anabad</i>). Further case of plaintiff is that the Consolidation Officer vide order dated 16.08.1980 has ordered mutation in favour of plaintiffs and it was reported in case no. 233/76-77 that the land was <i>Gairmazrua khas</i> but now it is <i>raiya</i> land and the plaintiff is having possession over the same since last 31-32 years. Heard the arguments put forth by the Id. Counsel of the both side and perused the case record. It is an established principle of law that for passing an order over a petition of injunction, the court has to look into three important ingredients i.e. 1. <i>Prima facie case</i> 2. Balance of convenience and 3. Irreparable loss. The absence of any of the three ingredients will cause dismissal of the petition for injunction. The burden of proving the same here is upon the petitioner-plaintiff. Prima facie case : while pressing the petition, the Id. counsel on behalf of plaintiff submitted that has a good <i>prima facie</i> case in his favour, and balance of convenience is also in his favour. If the defendant is not restrained from changing the nature of 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 injunction be passed in favour of the plaintiff, restraining the defendant from changing the nature of the suit land, till the disposal of the suit. It is further submitted that the schedule property belong to plaintiffs. Hence, <i>prima facie</i> case and balance of	

convenience is in favour of plaintiff.

On the other side the Id. A.G.P on behalf of defendant stated that the khatian of the disputed land is in the name of defendant. Hence there is no *prima facie* case in favour of plaintiff.

After considering the entire facts of the suit, the documents available on record as well as the submissions advanced on behalf of the parties, it appears that both parties are claiming their right, title, interest over the suit land, schedule property of the plaint. But it appears that the plaintiff has a case which needs to be decided by this court.

Balance of Convenience:- It is note worthy to mention that this court has to weigh the circumstances of the plaintiffs and the defendant and has to compare the potential harm that could result from withholding the injunction versus granting it. The plaintiff could not show that the harm or inconvenience caused by not granting the injunction would be greater than what could occur if it were granted. Thus the plaintiff could not show the balance of convenience lies in his favour.

Irreparable Loss :- The plaintiffs have not specifically stated as what irreparable injury shall be caused to them, if injunction as prayed will not be granted or they have no other remedy open by which they can protect themselves from the consequences of such apprehending injury. The expected loss caused to the plaintiffs have not been brought forward before this court, which may be stated as irreparable. Moreover, there exists no certain pecuniary standard to measure the expected injury, which cannot be compensated to the petitioners.

So, from the discussions made above, it is crystal clear that the plaintiffs-petitioner will have no irreparable injury, which can not be compensated in terms of money. In view of the discussions made above, I find that no irreparable loss is going to cause to the plaintiff, which can not be compensated. Hence, considering all these aspects of this case, on the basis of discussions made above, I find & accordingly hold that the petition dated 24-12-2024 filed on behalf of the plaintiffs under Order 39 rules 1 & 2 is not maintainable at this stage. Accordingly, the petition dated 24-12-2024 is hereby rejected. Notwithstanding the above order passed by this court, the defendant Bihar Sarkar has to take into consideration the principles enshrined under section of 52 Transfer of Property Act.

Put up on for w.s on behalf of defendant.

(Dictated)

**Civil Judge (Sr. Div.)-I
Piro.**