

**IN THE COURT OF SUB JUDGE-II  
DUMRAON- BUXAR  
ORDER  
T.S- 576/2013**

| SL. NO. | Date of Order or Proceeding | Order with the Signature of the Court                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Office action taken with date |
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|         | 04/12/2021                  | <p>Heard. Perused record. Learned Counsel Shri Rajesh Singh (advocate) is present on behalf of applicant Hari Krishna Yadav and others. Learned Counsel Shri Sunil Tiwari appeared on behalf of respondents by filing a power of attorney.</p> <p>Learned Counsel of applicant moves and press injunction petition dt. 01/12/2021 under Order 39 Rule 1&amp;2 read with S. 151 Civil Procedure code.</p> <p>Learned Counsel of applicant of injunction petition makes following submission:-</p> <p>(i) That the instant suit is brought by plaintiff without any cause.</p> <p>(ii) That the plaintiff have got a share of 1/3 (one-third) in village Pandeypur.</p> <p>That the plaintiff have got a share of 1/3 (one-third) in village Chougain and that Hon'ble Court may declare the entry of name of Babulal as a wrongful entry.</p> <p>(iii) That the plaintiff had prayed before the Court that the gift deed dt. 21/07/1973 in regard of Maheshwari Devi against father of defendant no. 1&amp;2 Shri Kaval Singh Yadav in respect of Schedule No. 4 of plaint, is a forged, fabricated and void document and in excess of share.</p> <p>(iv) That the waiver deed dt.11/12/1984 is a forged and fabricated document.</p> <p>(v) That defendant no. 1&amp;2 are engaged in a construction activity relating to disputed suit property.</p> <p>Learned Counsel of plaintiff had filed a rejoinder regarding the instant injunction petition. The rejoinder is duly</p> |                               |

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received by the counsel of plaintiff. Counsel of defendant made following submissions.

(a) There is no provision for issuing an order of injunction in petition suit.

(b) There exists a waiver dt. 11/12/1984.

(c) There exists a petition dt. 06/07/2021 to dismiss suit under S.10 Civil procedure code.

(d) That S.10 Civil procedure code is completely applicable in this case.

(e) That it had been stated that in T.S 41/1998 case a judgment was passed on 08/08/2003 and an appeal is pending. After the appeal was dismissed Misc. 01/2011 in pending.

On hearing of arguments and perusal of record the Court observes that respondents of this injunction petition had not filed any document relating to waiver.

On hearing of arguments that the respondents of the instant do not deny the fact that they intend to carry out construction activities at disputed suit property.

During the Cause of arguments. Learned Counsel of respondents realize that a certified copy of waiver deed. Since the suit is relating to petition of a joint property and the respondents intend to carry out a completely new structure on a vacant land and this fact is not being denied by the respondents hence the court is of the opinion that balance of convenience may be altered and an irreparable loss is likely to be caused if respondents raise a new structure without presenting proper documents.

After hearing the arguments and perusal of record the court is of the opinion that in the interests of justice it would be just and proper to restrain the respondents from any

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construction activity for a period of 30 days (thirty days) from today. After said period of thirty days the injunction order would get vacated unless a fresh a order is passed after the hearing on a fresh petition. The parties would be at liberty to file a new petition on discovery of new facts or to vary or set aside injunction order in order to pursue the legal remedies that remain available to the litigants.

Sd.

SJ-II  
Sub Divisional Court,  
Dumraon, Buxar