

**IN THE COURT OF SUB JUDGE-II
DUMRAON- BUXAR
ORDER
T.S- 188/2020**

SL. NO.	Date of Order or Proceeding	Order with the Signature of the Court	Office action taken with date
1	2	3	4
	30/11/2021	Heard. Perused record. Learned Counsel of plaintiff move and press petition dt. 15/11/2021 and prays for granting injunction. Learned Counsel submits that the instant suit is filed over the suit land under village Dhan Chapra as detailed in Schedule No. 02 of the plaint for getting the relief of declaration of title and confirmation of possession. Learned Counsel also submits that the assertion made by the defendants are baseless and that the court may order for removal of any encroachment it found. Learned Counsel of plaintiff prays that the Court may restrain the defendants from changing the nature of suit land and also to restrain the defendants from any sale transaction relating to disputed suit property. That the defendant had forcibly tried to take over the possession of the disputed suit property in 2008 and a suit no 420/2008 under S. 144 C.P.C proceed in which it was ordered that the disputed suit property may properly be measured. That on 15/11/2021 also plaintiff tried to Change the nature of disputed suit property by use of force and violence. The defendants have filed a rejoinder/ Court to the injunction petition but the same is not supported on affidavit. Learned Counsel of defendants further submit that :- (i) The injunction petition is ill conceived and liable to be rejected. (ii) That the injunction petition is non- maintainable under law as a wrongful genealogical table has been filed.	

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- (iii) That plaintiff has no concern with the suit property.
- (iv) That on partition Jagdish Pandey S/o- Ram Janam Pandey obtained a share in disputed suit property and plaintiff have no concern with the same.
- (v) That the record of rights stand in the name of Jagdish Pandey.
- (vi) That the plaintiff are laying their claim on the basis of forged and fabricated deed of waiver.
- (vii) That legally no one can obtain title on the basis of waiver.
- (viii) That on the basis of the report of Circle Ameen the plaintiff are shown as purchase of 6 (six) decimals of land in South direction of Plot No. 173 and against the truth.
- (ix) That in respect of father of defendant on Order under S.10(B) of Consolidation Act has been passed in Case No. 01 of 1983-84.
- (x) That Case no 802 of 2019 under Cr. P.C.144 was dismissed Citing reason that “on the basis of “waiver” right and title Over any suit Land can not be established.”
- (xi) That without the Order in Case No. 1 of 1983/84 being set-aside no relief Can be granted to the plaintiff.

On hearing of arguments and perusal of record the Court makes following Observation.

- (a) That a 'waiver' deed dt. 01/07/1978 is placed on record and this document is more than thirty years old.
- (b) Order dt. 06/02/2017 from Court of Circle Officer is placed on record where in a finding that there is difference in map of record of rights and measurement on actual spot had been recorded.
- (c) an Order dt. 01/02/2020 from the Court of Circle Officer under Cr. P.C.144 in 802/2019 is placed on record and it had

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been stated that record and it had been stated that record set had obtained land in question on the basis of registered sale deed and 06 decimals of land in Consolidation Case were obtained by Jagdish Pandey through certification and that no title or right is established on the basis of deed of waiver.

On the basis of above Observation and perusal of record the Court is of the opinion that prima facie a case is made out and there exists a balance of Convenience in favour of applicant and if the defendant sell the disputed suit land then an irreparable loss is likely to be caused to the plaintiff if disputed suit property is alienated.

On the basis of above observations and findings and perusal of record the court restrains all parties to the suit from any sale transaction for a period of three months from today. After the said period of three months the injunction Order will be Vacated unless.

After the said period the injunction order would get vacated unless modified or varied on fresh hearing on a fresh petition. The parties may also file a new petition on discovery of new facts or occurrence of new circumstances in order to avail the legal remedies that remain available. In order to protect their interests and right and for further proceedings as per the law.

Sd.

SJ-II
Sub Divisional Court,
Dumraon, Buxar