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In the Court of District & Additional Sessions Judge-Ist, Kishanganj

Present : Suresh Kumar Singh- II
Addl. Sessions Judge-Ist, Kishanganj

Misc. Civil Appeal No.- 05/2025
(CIS No.- 05/2025)

[Arising out of order dated 08.10.2025 passed by learned Civil Judge Senior
Division-Ist at Kishanganj in Title Suit No. 38/2023]

Date of Judgement 21.07.2026

Daftari Developers Private Limited
.....Appellant

Vs.

1. Devendra Kumar Jain & others
.....Respondents

Counsel for the Appellant	: Sri Ashok Kumar singh , Advocate
Counsel for the Respondent	: Sri Dharm Chandra Jain Advocate

Judgement

1. This Misc. Appeal has been directed against the order dated 08.10.2025 passed by Civil Judge Senior Division-Ist at Kishanganj in Title Suit No. 38/2023. Respondent No. 01 Devendra Kumar Jain was plaintiff in Title Suit No. 38/2023 and appellant was defendant no. 1 in the said suit.

2. Respondent no. 1 has filed title suit no. 38/2023 in the court of Civil Judge Senior Division Ist Kishanganj. In that suit plaintiff/respondent no. 01 has sought relief regarding declaration that the sale deeds dated 11.01.2021 executed by defendant no. 04 in favour of defendant no. 02 and 03, sale deed dated 23.01.2021 executed by defendant no. 05 to 11 in favour of defendant no. 02 and 03, sale deed dated 23.09.2021 executed by defendant no. 02 and 03 in favour of defendant no. 01 as void, collusive, invalid and inoperative. The plaintiff has further sought relief regarding declaration that M.S. Khata no. 24 published in the name of ancestors defendant no. 02 and 03 also wrong and not binding upon the plaintiff and have also sought relief of permanent injunction and temporary injunction against the defendant and also sought

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declaration that the plaintiff is lawfull owner and have got right, title and possession over the suit land.

3. Plaintiffs case in brief is that suit land mentioned in plaint along with the other land was recorded in the name of Nitu, S/o-Bharti in C.S. khatiyan who was grandfather of defendant no. 04. Raisuddin. The plaintiffs have purchased the said land through registered sale deed dated 11.04.2014 executed by Raisuddin in favour of plaintiff and after that his name was duly mutated vide Jamabandi No. 356 and since then the plaintiff is continuing in possession over the said land. The palintiffs filed an appliaction before the C.O. Kishanganj for demarcation of his afore said land and deposited the Amin's fee Rs. 1500/-. ON 15.03.2022 defendant no. 1 filed an objection before the C.O. Kishanganj taking claim over the suit land. Both parteis produced their respective doccuments.The C.O. dropped the proceeding observing that matter should be decided by competent court. After that the Plaintiff obtainend certified copies of said sale deeds which are fraudulent and collussive and on the strength of sale deeds the defendant ha not acquired right title and interest over the suit land. Entire share of defendant no.4 in suit land was already transferred by defendant no. 4 to to the plaintiff through the sahe deed dated 11.04.2014 therefor defendant no. 4 had no subsisting title at the time of execution of sale deed dated 04.01.2021. Thereafter sale deed dated 23.09.2021 executed by defendant no. 2 and 3 in favour of defendant no.1on the basis of sale deed dated 04.01.2021 is also illigal, in valid and void and defendantno. 1 has not acquired any right, title and interest in the suit land. Defendant on the strength of said sale deeds and false jamabandi is rsising his claim over the suit landand bent upon to disposes the palintiff from the suit land. The plaintiff has filed injuctionpetition on 29.01.2026 in the said title suit in which he has stated that defendant no. 01 who is appellant in this appeal is trying to disposes the plaintiff from the suit land with the help of his relatives and some anti-social elements forcibly and has

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collected materials to make permanent construction over the suit land and has prayed to restrain him from making any construction over the suit land

4. On the other hand defendants no.1 case is that earlier defendant no. 04 Raisuddin who is vender of the plaintiff has filed Title Suit No. 09/2014 in the Court of Sub-Judge-Ist through his power of attorney holder against Sandeep Shetty and others who are also defendant in this case and are vender of defendant no. 01. Later on, Raisuddin filed the petition in the said Court Under order 23 Rule 01 C.P.C. regarding withdrawl of the suit and as such the suit was withdrawn by the Raisuddin. The disputed land has been recorded in the name of Tikamchand Shethi, Sampat Lal Sethi and Sharwan Kumar Shethi sons of Panna Lal Sethi in the municipal survey khatian. It is further case of defendant no.1/ appellant is that ancestors of Raisuddin sold the said land Hari Prasad Bhagat. Hari Prasad Bhagat sold the said land on 20.03.1963 through registered sale deed to Sohan Lal Sagori. Sohan Lal Sagori transferred the said of old khata no. 08 and plot no. 362 was having an area of Khatta 03 dhoor along with other land to the ancestor of vendor of the appellant vide sale deed dated 12.01.1969. during municipal survey operation the said land was recorded in the name of Tikam Chand Sethi and others. The legal heirs of Tikam Chand Shetti and others transferred land of M.S. khata no. 24, plot no. 198, 199 total area 32 aier 40 point through registered sale deed dated 23.09.2021 and after that the defendants are continuing peaceful possession over the said land and he has been duly mutated in the Shirista of State of Bihar and are paying rent. Raisuddin has executed registered sale deed dated 11.04.2014 wrongly mentioning that M.S. Khata No. 24 plot no. 199 Kha showing it as his own land and in Title Suit No. 09/2014 he withdrawn that suit. Further case of the defendant is that earlier defendant no. 04 Raisuddin who is vender of the plaintiff has filed Title Suit No. 09/2014 in the Court of Sub-Judge-Ist through his power of attorney holder against Sandeep Shetty and others who are also defendant in this case and are vender of defendant no. 01. Later on, Raisuddin filed

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the petition in the said Court Under order 23 Rule 01 C.P.C. regarding withdrawal of the suit and as such the suit was withdrawn by the Raisuddin, The defendants have got No try title and interest over the suit property on the basis of sale deed executed by Raisuddin in their favour. The defendants prayed to dismiss the injunction petition filed by the plaintiff.

5 . Defendant number 4. Has supported the case of the defendants in his written statement Add defendant number 5 to 11 has supported the case of the plaintiff, in their written statement.

6. After hearing both the parties the Ld. Senior Judge Civil Division-Ist, Kishanganj passed impugned order by that order the Court allow the injunction petition filed by the plaintiff and rest injunctioned the defendants from making any construction over the suit land.

7. While assailing the impugned order in the said appeal the learned lawyer for the appellant submitted that the order of Ld. Civil Judge is perverse and illogical. The present plaintiff who is own brother of Sunil Kumar Jain (Power of Attorney holder of Raisuddin in T.S. No. 09/2014) has concealed vital fact from the trial Court and has filed false and baseless case. The Trial Court has not appreciated the fact that the suit land was already sold by the ancestors of Raisuddin to Hari Prasad Bhagat and Kishan Prasad Bhagat and they have transferred to others. The Ld. Trial Court has not appreciated the document produced by the defendant. The appellants have prayed to allow the appeal and set aside the impugned order.

8. On the other hand learned lawyer for the respondents said that the order passed by the learned Civil Judge Senior Division-Ist Kishanganj is just and proper and has been passed after due consideration of materials available on the record. The learned lawyer for the respondents no.1 prayed to dismiss this appeal.

9. Heard both the parties and perused entire case record. For deciding the injunction petition 3 things is to be looked into which are *prims facie* case, balance of convenience and irreparable loss. So far as

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prima facie case is concerned after hearing the parties and perusal of the of case records it is clear that the plaintiff/ respondent no.1 is claiming his title on the basis of sale deed dated 11.04.2014 Executed by Raeesuddin in his favour. But the plaintiff has not filed any document in the name of Raisuddin. Earlier Raisuddin Has filed title suit number 09/2014 but later on he withdrawn the suit.

10. The plaintiffs/respondent have filed photo copy of C.S. Khatiyani which is in the name of Nitu but after that he is not filed any rent receipt for any document in the name of ancestors of Raisuddin vendor of the plaintiff. Municipal Survey Khatiyani with respect to suit land has been prepared in the name of vendor of appellants. The appellants have filed photo copy of M.S. Khatiyani which is in the name of Tikam chand sethi, Sampat lal sethi and sarwan kumar sethi. The appellants have also filed photo copy of sale deed dated 12-01-1968 executed by Hari Prasad Bhagat in favour of Sohan Lal Sagori. Legal heirs of khatiyani raiyat of M.S. Khatiyani has transferred the suit land to the plaintiff on 23.09.2021 in favour of appellants /defendant no. 1. The appellants /defendant no. 1 has filed rent receipts in the name of his vendor and after purchase in their name. The plaintiff/ respondent no.1 has filed rent receipts in name but save and expected rent receipts in his name, he has not filed any document regarding title of his vendor Raisuddin. So far as sale deed dated 04.09.2021 executed by Raisuddin in favour of Sandeep Sethi and Arun Kumar Sethi is concerned, the nature of deed has been shown as sale deed but its recital discloses that it is deed of relinquishment. It is settled principle of law that nature of these deed is tested by its recital. From discussion made above, it is clear that the appellants have filed consistent document regarding his title over the suit land but the plaintiff/respondent has not filed consistent document of title over suit land. Therefore, it is clear that the plaintiffs/respondents have got no prima facie case over the suit land and since M.S. khatiyani is the name of appellants/ respondents, therefore balance of convenience also leans in the favour of the

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appellants and after conjunction is allowed apellant will suffer from irreparable loss.

From the discussion made above, it is clear that the Trial Court has earded in holding that the plaintiffs/respondents have got prima facie case and balance of convenience in their favour and have restrain the appellants from making any construction over the suit land. The order of trial court is contrary to the settled legal principles. The impugned is liable to be set aside.

ORDER

The Miscellaneous appeal is allowed. Impuned order dated 08.10.2025 passed by learened Civil Judge Senior Division Ist, Kishanganj in T.S. No.- 38/2023 is set aside. Observation made in this judgement shall not afect the final adjudication of the suit.

(Dictated and corrected by me)

Sd./-

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Addl. Sessions Judge
-cum-Special Judge,
Kishanganj
21-07-2026

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Date of Judgment/Order	21-07-2026
Date of reserving judgment/order	08-07-2026
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