

**IN THE COURT OF DISTRICT JUDGE-III,
KAIMUR AT BHABHUA**

Civil Misc. Appeal No. 05 of 2021

1. Shyam Narayan Singh Aged about 55 years.
2. Jai Prakash Singh Aged about 50 years.
Both S/o Late Bal Karan Singh.
3. Nathuni Singh, S/o Late Keshar Singh, Aged about 64 years
- 4.A. Shiv Pujan Singh.
- 4.B. Shiv Bachan Singh.
- 4.C. Sanjay Singh.
All S/o Late Bahadur Singh.
5. Dilraji Devi, W/o Late Jagdish Singh, Aged about 85 years.
All R/o Village-Khiri, PS-Bhagwanpur, Distt-Kaimur.
6. Sidheshwar @ Supari Singh, S/o Late Dargahi Singh, Aged
about 45 years, R/o Village-Kaser, PS-Bhagwanpur, Distt.
Kaimur.

.....Appellants

Versus

1. Vishwanath Singh & Ors.

..... Respondents

Ld. Counsel of Appellants : **Sri Ravi Kumar Singh.**

Ld. Counsel of Respondent : **Sri Jagat Narayan Tiwari.**

Present :- ***Vinay Prakash Tiwari***
District Judge-III,
Kaimur at Bhabhua
Dated : 28.04.2026

ORDER

1. This miscellaneous appeal has been preferred against the order dated 16.12.2020 passed by the Ld. Civil Judge (JD), Kaimur in T.S. Case No. 137/2006 (Reg. No. 3121/2014) by which the relief of

temporary injunction was granted as status quo over the suit land in favour of the plaintiffs.

2. Crux of the case is that, the respondents/plaintiffs have filed a title suit bearing no. 137/2006 before the learned Court below for the relief of permanent injunction over the suit land. It has been averred in the plaint that plaintiffs being the heirs of common ancestor of the family, namely, Sukhi Singh and the property as described in schedule of the plaint is their ancestral property. As the defendants were causing obstructions in the peaceful possession of the plaintiffs over the suit land, thereafter, the suit was filed.

3. As per WS, the defendants second set have averred that they are the purchasers of the suit land and they have purchased the suit land from the co-sharer of the joint family property. Since the date of execution of sale deed they have been coming into possession of the suit land.

4. After filing of the suit, the plaintiffs have filed petition dated 24.08.2006 as well as 15.09.2017 u/o 39 Rule 1 as well as u/s 151 of the CPC. After hearing the parties, the impugned order was passed by the learned Court below by which both the parties were directed to maintain status quo over the suit land as described in sch. G of the plaint till the disposal of the suit. The learned Court below has observed in his impugned order that the entire area of plot no. 33 is 1 acre 53 dismil. In title suit no. 186/1976 whole area of plot no. 33 was made subject matter of the suit. In the suit the land having area 1 acre 10 dismil towards north was allotted to the plaintiffs of this case and rest 43 dismil land towards south was allotted to Subedar Singh and his sons, defendants no. 11 to 16. They are vendors of defendant

first set. The plaintiffs have averred that they have sold out 83.5 dismil land towards north side and there is only 26.5 dismil land remained to their share. Which is subject matter of this suit. Out of this land the defendants first set have encroached about six dismil land, described in the plaint. The plaintiffs have not claimed any land allotted to vendors of defendant first set out of 43 dismil. Their claim is based on only 1.10 acre land as per judgment and decree of title suit 186/1976. The consolidation Court has also passed order for recording separate khata in the name of plaintiffs as per decree passed the title suit no. 186/1976. They have also got mutation order with respect to their allotted land. The learned Court below has held that the judgment and decree passed the title suit no. 186/1976 is still in existence and the same has been binding upon the parties. The learned Court has made these facts while holding the prima facie case of the plaintiffs over the suit land. And ordered the status quo to be maintained by parties of the suit to the extent of the suit land having area six dismil.

5. Admittedly, the title suit 186/1976 was decided and plaintiffs as well as vendors of defendant first set were allotted 1.10 and 43 dismil land of plot no. 33 respectively. The consolidation order as well as mutation order were also passed in favour of plaintiffs with respects to the allotted land of the plaintiffs. Admittedly, the suit land having area six dismil was allotted to the plaintiffs vide judgment and decree of title suit no. 186/1976. The same are unchallenged up till now and must be binding to the parties. In such circumstance, the learned Court below has rightly found the prima facie case in favour of the plaintiffs. It is also ordered that if the relief of temporary injunction will not granted the plaintiffs will suffer irreparable loss. Balance of

convenience also lies in favour of plaintiffs. All the ingredients for granting temporary injunction were present before the learned Court below with respect to the suit land while passing the impugned order. I do not find any illegality in the impugned order the same is hereby confirmed. The miscellaneous appeal is devoid of any merit and the same is ***dismissed***.

Office Clerk is directed to send the LCR along with copy of this order to the learned Court below.

(Dictated)

Sd/-

(Vinay Prakash Tiwari)
District Judge-III
Kaimur at Bhabhua.