

COURT OF CIVIL JUDGE (Senior Division)

Barsoi, Katihar

T. S. No. 13/2022

Masood Ali & Others.....Plaintiffs.

Vrs.

Rajjaque Hussain & Others.....Defendants.

Date of Order of Proceeding	Order with the Signature of the Court	Office action taken with date
15.04.2026	<p>Attendance has been filed on behalf of the plaintiff. No pairvi has been filed on behalf of the defendant but Ld. counsel of the defendant is present in the court. Heard the Ld. counsel of both sides on petition dated 01.05.2023 filed by the plaintiff u/o XXXIX Rule 1 &amp; 2 CPC to which rejoinder dated 15.01.2025 has been filed by the defendant. Heard the Ld. counsel of both sides. Perused the record and photo copy of documents filed by the plaintiff in support of the petition.</p> <p>The case of the plaintiff in short is that khata No. 65/ka in Mauza- Jagarnathpur, Thana- Kadwa, Revenue Thana No. 53, District- Katihar stands in name of 5 persons and the total area in that khata is 15 acre 60 decimal. The share are each khatiyani raiyat would get would be 3.12 acre. Out of five one Khatiyani raiyat Lal Mohammad died leaving behind Khijrat Ali and Khijrat Ali died leaving behind three sons and one daughter. The daughter left her share to three brothers. Out of three brothers Hussain Ali is one of them who inherited 1.04 acre of land out of 3.12 acre of land. Hussain Ali in his life time sold 63 ½ decimal land in favour of the plaintiff in Year 2000 vide sale-deed No. 6551 dated 26.07.2000 and 24.750 decimal to Manasura Khatoon vide sale-deed dated 22.01.2002 and further sold 24.750 decimal land to Pano Khatoon vide sale-deed dated 11.03.2002. Hussain Ali sold the entire share of</p>	

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his land of his khata during his lifetime and no share of his land remained thereafter in the said khata. Hussain Ali by executing sale-deed in favour of the plaintiff gave possession of 63 ½ decimal of land on plot No. 50 but in the sale-deed plot No. was scribed 51. Taking advantage of the situation defendant 1<sup>st</sup> set the legal heirs of Hussain Ali executed the sale-deed dated 28.01.2022 for 47.3 decimal land out of plot no. 50 from the said khata. On the basis of the sale-deed executed by defendant 1<sup>st</sup> set in favour of the defendant 2<sup>nd</sup> set; Defendant 2<sup>nd</sup> set started disturbing the possession of the plaintiff. Plaintiff prays that they be restrained from disturbing his possession during the pendency of the suit. Ld. counsel of the defendants opposes the injunction petition of the plaintiff stating that the plaintiff had admitted that sale-deed was executed to him in respect of plot No. 51 only because he had himself executed a sale-deed to another person for 20 decimal land mentioning the same plot which is in his sale-deed and as such the petition of the plaintiff is not maintainable.

After hearing the Ld. counsel of both sides and perusing the documents filed by the plaintiff, Court come to the conclusion that the plaintiff might have erred in getting not the right plot number written on the deed but the father of the deft. 1<sup>st</sup> set had already sold off his property of the khata in his lifetime only and his heirs have no right to execute any sale-deed in the said khata after his demise. If there is any dispute relating to the plot number and possession on the suit property the persons to whom Hussain Ali has sold his land can settle the matter among themselves but defendant 2<sup>nd</sup> party who had acquired title on the basis of the deed executed by the defendant 1<sup>st</sup> party has no right to interfere on the suit land because the heirs of Hussain Ali had no right to execute the sale-deed in respect to the property of the

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said khata because it already stood exhausted in his share.

In the light of above discussion the injunction petition of the plaintiff is allowed and defendants are restrained from going over the suit land till disposal of the case or face the consequences of disobedience of injunction order. This is a very strict order to be complied by the defendants. Put the record for filing of documents and hearing of the parties u/s 89 CPC on 11.05.2026

Dictated

Civil Judge(Sr. Div.)