

T.S - 255/17**Rokshana Khatoon..... Plaintiff.****V/S****Maya Devi Defendant.****20.06.2026**

01. This Court has carefully considered the pleadings of the parties, the documents produced by them and the submissions advanced by the learned counsel. The plaintiff has instituted the present suit seeking declaration of title, confirmation of possession and declaration that the registered Sale Deed dated 30.03.2013 executed in favour of the defendants is illegal, void ab initio and not binding upon her rights. Simultaneously, she has sought temporary injunction restraining the defendants from alienating the suit property or interfering with her possession during the pendency of the suit. The plaintiff's claim is founded upon a continuous chain of title commencing from the registered *Tamliknama/Gift Deed dated 15.09.1926*, followed by the registered Deed of *Ladavi/Bajidawa dated 17.05.1956/19.05.1956*, subsequent family partition of the year 1978 and later registered sale deeds inter se the family members. The plaintiff has further asserted that she is in settled possession of the suit property, that her name stands recorded in the municipal records and that tenants inducted by her have been paying rent to her.
02. On the other hand, the defendants claim title through a registered *Sale Deed dated 30.03.2013* executed in favour of the deceased Maya Devi by the alleged successors of the original owners. The defendants further contend that the plaintiff is merely a tenant and rely upon the pendency of Title Eviction Suit No. 25 of 2016.

03. At this stage, this Court is not expected to record a final finding on the disputed question of title. Such issues require appreciation of oral and documentary evidence after trial. Nevertheless, for deciding an application under Order XXXIX Rules 1 and 2 CPC, the Court is required to examine whether the plaintiff has established **(i) a prima facie case, (ii) balance of convenience, and (iii) likelihood of irreparable injury.**
04. The pleadings and documents produced by the plaintiff disclose a substantial and arguable claim of title supported by registered instruments executed much prior to the defendants' Sale Deed of the year 2013. Whether those documents effectively extinguished the rights of the predecessors-in-interest of the defendants and whether the subsequent Sale Deed dated 30.03.2013 conveyed any valid title are issues which can be finally determined only after full-fledged trial. However, at this stage, the plaintiff has succeeded in raising a bona fide and serious triable issue requiring adjudication. Consequently, this Court is satisfied that the plaintiff has established a **prima facie case.**
05. The **balance of convenience** also tilts in favour of maintaining the existing state of affairs. The defendants themselves admit that the plaintiff is occupying the suit premises, though according to them as a tenant. Thus, the plaintiff's possession is not in serious dispute. If, during the pendency of the suit, the defendants are permitted to alienate the property or create third-party interests, the litigation may become unnecessarily complicated and may result in multiplicity of proceedings, thereby frustrating the ultimate adjudication of rights. This Court further finds that there exists a real and imminent apprehension of further alienation of the suit property. The pleadings and materials on record disclose that the defendants have already dealt with a part of the suit property and are allegedly attempting to create further third-party interests during the pendency of the suit. If such alienation is permitted to continue, the subject matter of the litigation may undergo substantial alteration, resulting in multiplicity of proceedings and

seriously prejudicing the rights of the parties. Creation of third-party rights during the pendency of the suit would not only complicate the execution of the eventual decree but may also render the relief sought by the plaintiff illusory. Preservation of the suit property in its existing condition is, therefore, imperative to ensure that the final adjudication is meaningful and effective. Accordingly, the balance of convenience lies in favour of maintaining status quo and restraining the defendants from further transferring, alienating or encumbering the suit property till disposal of the suit.

06. The plaintiff has specifically pleaded that prospective purchasers have been visiting the property and that the defendants are attempting to transfer the same. If such transfer is permitted during the pendency of the suit, the plaintiff is likely to suffer **irreparable injury** which cannot be adequately compensated in monetary terms. On the contrary, no prejudice would be caused to the defendants if they are merely restrained from creating third-party rights until the rights of the parties are finally adjudicated.

It is well settled that the object of granting temporary injunction is to preserve the subject matter of the litigation so that the final decree, if passed, does not become infructuous. Preservation of the property in its existing condition would best serve the ends of justice.

Decision

In view of the foregoing discussion, this Court is satisfied that the plaintiff has successfully established all the three essential ingredients for grant of temporary injunction, namely, **a prima facie case, balance of convenience and likelihood of irreparable injury**. Accordingly, the application under **Order XXXIX Rules 1 and 2 read with Section 151 of cpc** deserves to be allowed and is hereby **allowed**. As such, the defendants, their agents, servants, representatives or any person claiming through them are hereby restrained from transferring, alienating, encumbering, creating any third-party interest in, or otherwise dealing with the suit property, and from dispossessing the

seriously prejudicing the rights of the parties. Creation of third-party rights during the pendency of the suit would not only complicate the execution of the eventual decree but may also render the relief sought by the plaintiff illusory. Preservation of the suit property in its existing condition is, therefore, imperative to ensure that the final adjudication is meaningful and effective. Accordingly, the balance of convenience lies in favour of maintaining status quo and restraining the defendants from further transferring, alienating or encumbering the suit property till disposal of the suit.

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plaintiff or interfering with her peaceful possession over the suit property, except in due course of law, till the final disposal of the suit.

It is, however, clarified that the observations made herein shall not be construed as an expression of opinion on the merits of the case, and the suit shall be decided independently on the basis of the evidence adduced by the parties.



Civil Judge (Sr. Division) 1st
Civil Court,
Patna City
20.06.2026