

Court of Civil Judge (Junior Division), Banmankhi, Purnea

Injunction Suit No.- 01 / 2023

Domi Paswan & Others ----- Plaintiff

Versus

Surendra Prasad Yadav ----- Defendant

10-03-2025

Attendance has been filed on behalf of plaintiffs and defendant .

Plaintiff Domi Paswan & Others has instituted the present suit against the defendants Surendra Prasad Yadav for declaration that plaintiffs are in lawful possession over the suit land . Plaintiffs has filed petition under **Order 39 rule 1 and 2 CPC dated 03-05-2024** with the prayer to grant interim injunction restraining the defendants from interfering into his peaceful possession over the disputed land and restraining the defendant from changing the physical feature of the plaintiffs residential house over the suit land till the disposal of the suit for the ends of justice.

Heard the learned counsel for the parties and perused the record.

As has been stated in the plaint, interim injunction petition and the accompanying affidavit , the plaintiff has stated that during the revisional survey , suit land was recorded in the name of Tanuk Lal Yadav , Awadh Bihari Yadav , Braj Bihari , Gorelal Yadav , Shyam Bihari Yadav and in the remark column -B-kabjedar Jiwachh Paswan , sikmi khatiyani prepared in the name of Jiwachh as sikmi khata no. 161 . The plaintiff has further submitted that Jiwachh Paswan was in residential possession over the suit land area of 14 dismil till his last breath and after death of Jiwachh Paswan , his son Angad Paswan came in peaceful possession over the suit land . That Circle officer , Banmankhi gave Basgit Purcha in the name of Angad Paswan . After the death of Angad Paswan , his 3 sons namely Bugan Paswan , Bablu Paswan and Domi Paswan came into the possession over the suit land . That Angad Paswan got his name registered his name in register II as raiyat also got rent receipt in his name till his last breath . That sometime ago the Khatiyani raiyat Tanuk Lal Yadav and others partitioned the suit land among themselves and the defendant got 3.500 dismil in his favour but wrongly mutated total area of suit land i.e 14 dismil in his name . That after mutation , the defendant sold the suit land to Rekha Devi . Rekha Devi and the defendant Surendra Prasad Yadav are trying to forcibly dispossess the plaintiff from the suit land due to which the plaintiff will suffer irreparable loss . That in order to prevent the defendant from dispossessing the plaintiff and preserve the subject matter of the suit , it is very necessary to grant temporary injunction . The plaintiff has further submitted that the plaintiff has got good prima facie case and balance of convenience in his favour and if temporary injunction is not granted then he will suffer irreparable loss . The plaintiff by means of his injunction petition has prayed for issuing interim injunction restraining the defendant from interfering into his peaceful possession over the land in dispute during the pendency of the present civil suit.

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The defendant has contradicted the aforesaid statements of the plaintiff and have opposed the injunction application by filing his objection-cum-rejoinder dated 13-12-2024 . The stand taken by the defendant is that petition under Order 39 rule 1 and 2 CPC dated 03-05-2024 filed by the plaintiff is not maintainable either in law or on fact . The defendant has further stated that the suit land is his khatiyani land and the defendant is in peaceful possession over the same . The defendant has further specifically denied the statement of the plaintiff in para 02,03,04, 05 & 06 . That the defendant has sold his part of the suit land to Rekha Devi over which Rekha Devi has constructed house and is in peaceful possession over the same. The defendant has prayed that the court be pleased to dismiss the above mentioned injunction petition dated 03-05-2024, filed by the plaintiff , for the ends of justice .

As is evident from the aforesaid stands of the parties, the defendants claim their right and title in the disputed suit land. The plaintiff also claims that he is in peaceful possession over the disputed land. It is to be clarified here that at the stage of disposal of an interim injunction petition , question of right or title in the disputed land cannot be gone into by the court nor the same is relevant for purposes of disposal of the injunction petition in as much as the rival claims as to right and title of the parties in the disputed land can only be decided at the trial and not at the stage of disposal of the interim injunction petition . An interim injunction petition has to be decided on the basis of possession of the parties over the disputed land. Both the parties to the suit claims title over the property , hence there is a bonafide question required to be decided in the suit . Hence a **prima facie** case exists in the suit . The plaintiff has clearly stated in the above-mentioned injunction petition that he is in the possession of the land in dispute . Hence there is **balance of convenience** in favour of the plaintiff . But the plaintiff has failed to prove that his loss will be unquantifiable . Even if the defendant dispossess the plaintiff from the suit property , the plaintiff has option to claim relief of recovery of possession and also Mesne Profit . Thus the plaintiff has failed to prove that whether they will suffer **irreparable loss** if the above mentioned petition of temporary injunction is not granted in favour of the plaintiffs .

Considering the above discussed facts and circumstances of the case , **temporary injunction petition under Order 39 rule 1 and 2 CPC dated 03-05-2024** filed by the plaintiff stands **rejected** .

Put up on 25.04.2025 for further proceeding .

  
Civil Judge (Jr. Div.)  
Banmankhi , Purnea