

IN THE COURT OF SUB- JUDGE, SONEPUR at SARAN.

T.S. 58/2019

Date	Order
18/04/2024	<p>Pairavi of both side filed. Heard on petitions dated 12/08/2020 filed by Plaintiff under Order 39 Rule- 1&amp;2 of CPC. That disputed land bearing Khata No. 575, khesra No. 378, area 6 Kattha 9 dhurs in Village- Parmanandpur, Thana- Sonepur, District- Saran. That aforesaid land is entered in the name of “Bakast Maalik” khewat No. 15 malik name Singeshwar Prasad in revisional survey. That aforesaid disputed land was allotted to Singheswar Prasad in partition among Maliks and also mentioned in the possession column of revisional survey. That Singeshwar Prasad died leaving behind five sons namely Samrendra Kumar, Satendra Kumar, Somendra Kumar, Shashi Bhushan Kumar and Sudhirv Kumar. That disputed land bearing Khata No. 378 area 6 kattha and 9 dhurs was allotted to Samrendra Kumar, Satendra Kumar, Sumendra Kumar and Shashi Bhushan Kumar in family arrangement of property. That disputed land was sold by Samrendra Kumar, Satendra Kumar, Sumendra Kumar and Shashi Bhushan Kumar jointly to Plaintiff of the suit and also given possession over it. That defendants are unsocial person of society with and muscle and power. That they forcibly want to dispossess to plaintiff from the disputed land. That defendant also threatened plaintiff to construct over the disputed inspite of that they have no concern with disputed land. That prima facia case is made out in favour of plaintiff, irreparable loss cause to plaintiff if defendant not restrained by injunction and also balance of convenience in favour of plaintiff.</p> <p>Opposite party defendant have filed their show cause of injunction on dated 19/10/2020 and opposed petition. That it is burden on the plaintiff to prove facts mentioned in para 2 of petition. That facts mentioned in para 3 of petition is wrong and manipulated facts. Because disputed land was in the name of Singheswar Prasad, who sold it in on dated 30/12/1947 to Gangiya Dhobhi and hand over possession to them. That fact mentions in para 4 of petition is not correct. It is wrong to say that sons of Singheswar Prasad have sold disputed land to plaintiff on dated 9/07/2018. That above mentioned sale deed is illegal and void document because Singeshawar Prasad himself executed a sale deed in favour of Gangiya Dhobi. So there is no right left of Singeshwar Prasad on the said land hence his sons</p>

have no right to sell that land. That facts stated in para 5 of the petition is false because since 1947 land was in possession on Gangiya Dhobinand his legal heirs which is also admitted by plaintiff in para 9 of petition.

Heard both sides and perused record. on perusal it is clear that both of the parties admitted Title of possession of Singeshwar Prasad. Defendant has submitted that disputed land was in the name of Singheswar Prasad, who sold it in on dated 30/12/1947 to Gangiya Dhobhi and hand over possession to them. On the other hand plaintiff stated that he purchased disputed land through a registered sale deed by the legal heirs of Singheswar Prasad on dated 09.07.2018. But the aforesaid disputed land was already sold by Singeshwar Prasad in year 1947 and also hand over possession. Also till now sale deed dated 30.12.1947 is in existence and not declared void by any court. That advocate Commissioner after inspection submitted report in this suit. On perusal of advocate commissioner report it transpires that defendants have claiming their possession on the disputed land. considering above facts and circumstances prima facia case is made out in favour of defendant. Also no irreparable loss to the petitioner plaintiff and balance on convenience is in favour of defendant. Hence petition is hereby rejected.

Sub Judge-I