

Sub. Judge. J. Sonpur ( )  
Partition Suit 112/2023  
Bhagwan sharma V Rajiv sharma

12/11/25.

Parvari of both sides filed.  
Heard on petition dated 28/09/25  
filed under order 39 Rule-4 of  
C.P.C. by defendant. Defendant  
submitted that plaintiff has filed  
partition suit, in which defendant  
appear and filed written statement.  
That defendant has mentioned in  
his W.S that plaintiff has brought  
this partition suit without any title  
and interest in suit land. That one  
injunction petition has been filed by  
plaintiff against defendant, which was  
allowed by this court till further  
order of the court. That injunction  
order was passed more than one  
year. During this period plaintiff  
adduced total of witnesses on the  
same point. That plaintiff has  
no any evidence, and he only  
adopted the delaying tendency in

order.

P. S. 114/2023

-15/25

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12/11/25

since the injunction was granted. That plaintiff has adduced total six witnesses which show that he is prosecuting in the suit. so argument of defendant is "delaying tendency" is weak. That mere allegation that plaintiff has no evidence cannot be ground to vacate injunction under Order 39 Rule 4 of CPC. The argument asserted by the defendant only can be decided after full trial and at the final stage. But also keeping in the mind that injunction is granted and all of witnesses of plaintiff are more or less on the same point. so considering above circumstances petition is hereby rejected with direction to plaintiff to provide list of witnesses to which whom prosecutor willing to adduce as witness & also directed to adduce evidence on regular basis. Next date 22-11-25

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P.S. 114/2023

Contd  
12/11/25

this writ. That now circumstances is changed. Hence dependant praying to vacate the injunction order. Other side filed rejoinder and opposed the petition. Heard both sides and perused record. On perusal of record it transpires that dependant alleged that plaintiff has no real evidence and plaintiff is adopting delaying tactics. That on bare reading of Order 39 Rule (4) ~~provides~~ provides "No such order shall be discharged, varied or set aside unless there has been a change in the circumstances, or the court is satisfied that the order has caused undue hardship to the party". That injunction was passed after hearing and "is continuing" full bench order. The dependant in petition did not mention any change circumstances

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