

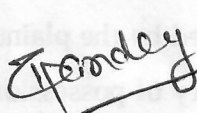
Court of Munsif-cum-Judicial Magistrate, Pupri (Sitamarhi)

Case No. TS No. 17/2018

Salam Ansari &Anr./Ors. Plaintiff(s) Vs. Sageer Ansari & Anr./Ors. Defendant(s)

Serial No.	Date of order of proceeding	Order with signature of the Court	Office action taken with date
	<u>04.09.2019</u>	This case record has been put up on order of an injunction petition dated 31.05.2019 filed by plaintiff and its rejoinder dated 01.08.2019. It is stated in injunction petition that plaintiffs have possession and title over 8½ decimal land of schedule of plaint and plaintiff has constructed his residential house and latrine room on it. But defendant no. 1 forcefully has locked the latrine of plaintiff. Besides this the residential house of schedule of plaint is in damage condition which requires repairing. Defendant no. 1 is creating hurdle in repairing of it so it is requested to stop the defendant no. 1 from creating hurdle in repairing of the house as well as in use of latrine. Where other party defendant no. 1 has stated in his rejoinder that plaintiff cleverly wants to declare his title and possession over suit land without final hearing of the suit. The suit land is purchased property of defendant no. 1 vide sale deed no. 5041 dated 07/08/1981 and defendant has constructed the aforesaid latrine on it. Plaintiff has title only over 6.25 decimal of land. Hence this petition is fit to be rejected. Heard both sides, perused the case record. From perusal of record court finds that it transpires that the present suit has been filed by the plaintiff for confirmation of title and possession along with recovery of possession over land mentioned in schedule 2 of the plaint. Plaintiff claims his title in the pleading on the basis of partition between the parties as all are of the same family but there is nothing documentary on the said matter on record. Moreover defendant has claimed his title on basis of sale deed executed by defendant no.3. It is admitted averment that defendant 1st party has possession over concerned latrine room made on 2 decimal of land. Further it is admitted pleading of plaintiff that suit land including latrine has been coming in possession of defendant first party since 31.01.2018. This fact reflects that suit land has already in possession of defendant first party priorly to filing of this suit. Contd. overleaf	

Case No.....

Serial No.	Date of order of proceeding	Order with signature of the Court	Office action taken with date
	contd.	Hence Under the aforesaid facts and circumstances of this case, this court finds that the the prima facie case do not stands in his favour. So far as the balance of convenience is concerned it is well acknowledged by the plaintiff that they are not in possession of the suit land priorly to filing of this suit whereas the defendants 1st party has asserted in their pleading as well as show cause that it is in his peaceful possession. The defendant 1st party is also claiming the same through a much priorly executed sale deed without objection. So the suit property appears in same position as it was before filing of the suit as nothing has changed during pendency of this suit. So the balance of convenience also not in in favour of the plaintiff. So far as the irreparable loss is concerned it is well admitted that the defendants are adjoining sharer of the suit land having purchaser of the same survey nos thereof is the subject matter of adjudication in this suit. Moreover non existence of any preliminary evidence regarding disposal of the suit property do not convince this court that any irreparable loss to him would be caused anyway. Accordingly I find no merit to the above petition, hence rejected. Put up the case on 25-09-2019 for hearing on 89 C.P.C.  Munsif-cum-J.M. Pupri, (Sitamarhi)	