

IN THE COURT OF CIVIL JUDGE (S.D),
POOPRI, SITAMARHI
PRESENT PRESIDING OFFICER SH. VINIT KUMAR SINGH
TITLE (PARTITION), SUIT NO. 174 OF 2022
IN THE MATTER OF:
DULAR RAI

...PLAINTIFF

VERSUS

Mst. RAMRATI DEVI & ORS.

...DEFENDANTS

ORDER

11.06.2024

Present application dated 04.10.2023 has been filed by the plaintiff under Order 39 Rule 1 and 2 CPC seeking *ad-interim* injunction against the defendants set no. 1 and set 4 thereby restraining them from alienating any part of the suit land till disposal of the suit.

It was contended by the plaintiffs that they have filed the present suit for partition of the suit land between the parties. It was also claimed that after death of their father namely Parikshan Rai they have owned and possessed the properties as mentioned in schedule 1 of plaint. The same was never partitioned between them or their descendants. Now since the family had grown and the defendants have declined to partition the property, plaintiffs have approached this Court for partition of the property.

It was then claimed that the defendants have sold few properties and they are looking for a chance to alienate valuable properties. Hence, the present injunction application has been filed with

prayer to restrain the defendants from alienating any part of the suit land. Further, the defendants have filed the rejoinder and claimed that suit of plaintiff is suffering from defect of necessary parties as well as he has filed this suit by concealing some material facts like the plaintiff himself has already sold the ancestral property just before the institution of this suit. Therefore, the plaintiff's application for injunction is liable to be rejected outrightly.

Heard Id. Counsel for the parties and perused the record. Perusal of record shows that the plaintiffs have filed the present suit for partition of the property. It was claimed by the plaintiffs that the suit land was owned and occupied jointly by their father. Thus, the properties are liable to be partitioned. However, the defendants claimed that the plaintiff has already sold the ancestral property and defendant has brought counter claim over this sold land of area 45 decimil. From plaint, it also appears that both the parties are living separately after an oral partition and they have settled possession over different properties.

At the very outset it is important to mention that this remedy of injunction is based on principle of equity of justice which primarily requires the parties to come before the Court with clean hand. The plaintiff in its pleading has concealed a material fact of selling of

- SITAMARHI

ancestral property which is considerable fact. Therefore, this petition of plaintiff is rejected outrightly with Cost of Rupees 1000.

This amount of cost shall be deposited in the Nazarat.

P.t. at Patna on 21.6.24.