

In the Court of Smt. Kirti Prasad
Sub Judge 1st Bagaha, West Champaran
T.S NO- 76/2025 **CIS No-57/2025**
Sujit PrasadPlaintiff
Vs
Chhotelal Baitha & Others.....Defendant

Date of Order	Order with initials of P.O	Action taken by office with date
23.09.2025	Today the record has been put up on order of injunction petition filed by the plaintiff. The rejoinder of the same was filed by the defendant on 25-06-2025. From the perusal of the injunction petition of the plaintiff it transpires that the plaintiff in para 3 of his injunction petition has submitted that the defendant 1st party has installed the oil tank & has also kept other raw materials in the alleged suit land without the prior permission of the plaintiff which has resulted into the dispute between both plaintiff and the defendant. Further they has also contended that the defendant 1st party is pressurising the plaintiff to sell his property & also to withdraw the Suit otherwise they will implicate the plaintiff in false criminal case. Further they has prayed that the defendant 1st party should restrained from constructing any further wall or petrol tanks in the suit property till the decision of the suit. The showcause has been filed by the defendant 1st party on 25-06-2025 & by the defendant 2nd party on 19-07-2025 From the persual of the show cause filed by the defendant 1st party it transpires that they have prayed that the instant injunction petition is not maintainable in the eye of law. They have further submitted that the allegations levelled by the plaintiff in the injuction petition are false & baseless. The prayer of injuction is barred by estoppel. Further they have submitted that the defendant no. 4 has obtained the lease dated 27.05.2019 registered on 29.05.2019 in respect of the suit land detailed in schedule no 1 of the plaint for a period of 25 years on the annual rent of Rs 1 lakh. He further obtained another lease deed dated 03.08.2019 in respect of the suit land detailed in schedule no 1A of the plaint for a period of 25 years on the annual rent of Rs 32000. Both the lease deeds were voluntary executed by the plaintiff in favour of defendant no. 4. The lease deeds were executed and registered to apply for retail outlet of HPCL petrol pump near village Bahuarwa Kanta. From the perusal of the case record, injunction	

In the Court of Smt. Kirti Prasad
Sub Judge 1st Bagaha, West Champaran
T.S NO- 76/2025 **CIS No-57/2025**
Sujit PrasadPlaintiff
Vs
Chhotelal Baitha & Others.....Defendant

Contd..... 23.09.2025	petition & rejoinder, it transpires that this suit was instituted by the plaintiff on 05-03-2025 and the order of status quo was passed by this court on 12-03-2025 and from the same order dated 12-03-2025 an advocate commissioner was appointed under order 26 Rule 09 C.P.C to know the status of the suit land as according to the averments of the plaintiff the defendant 1st party has installed the oil tank along with other materials in the suit property. From the perusal of the report submitted by the commissioner along with photograph dated 05-05-2025 it transpires that she has submitted in her report that the defendant has allocated bricks, mud and other materials on the suit property but there is no submission about the installation of any petrol tank by the defendant which is the main basis of the filing of the injunction petition. Further the said report was submitted on 05-05-2025 which was almost 4 months prior. Further the parties in the oral averments during the heaving of injunction petition has contended that the oil tanks has been completely installed and is in ready condition for its operation. Therefore, invoking the power of section 151 C.P.C this court in the interest of justice and to prevent the abuse of the process of the court finds out that that there is a necessity for the reappointment of commissioner as to the current status of suit property for the proper order on the injunction petition. Therefore, plaintiff is directed to pay the cost of Rs 3000/- (Three thousand) for the appointment of commissioner. Sri Kumar Neeraj Ld. Advocate is appointed as Advocate Commissioner for investigating the suit land and he is directed to submit the report with photograph. Record is put up on <u>09.10.2025</u> for the report of Advocate Commissioner. (Dictated & Corrected) KIRTI PRASAD SUB JUDGE I, BAGAHA	
---	--	--