

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

DATE	ORDER	REMARKS
05.08.2025	Attendance filed on behalf of Plaintiff and Defendants. Case called out for hearing on the point of Temporary Injunction O-39 Rule (1) & (2) and under section 151 of CPC. The present petition has been Filed by the plaintiff against the Defendants for interim injunction under order 39 Rule-1&2 and under section 151 of CPC on dated 11.06.2025. Show-couse rejoinder of aforesaid petition has been filed on behalf of Defendants on dated 10/07/2025 Heard the Learned counsel for the parties and perused the Petition and Rejoinder of the Defendants. Perused the Petition for Temporary injunction , upon perusal its appears that plaintiff has filed this petition for temporary injunction and stated that plaintiffs has filed this suit for declaration of Right , Title and possession over the suit land as given in schedule no-2 of the Plaint and it is further prayed that Defendants will also be restrained from unusual interfere in the possession of the plaintiff . it is further stated that survey hal khatiyon of Mauza– Dhobaha having khata no-274, Khesara-332 Rakwa-18 dhur were prepared in name of Bhola Bhar. Bhola Bhar having three sons namely Tikka Rai, Pilu Rai, and Tahal Rai and further stated that Tahal Rai died without marriage and as issueless leaving behind his brother namely Tika Rai and Pilu Rai and both brother came in peaceful possession over the land of khesara 332 and further stated that later on in family partition between Tika Rai and Pilu Rai the land of Khesara 332 came in share of Tika Rai and further stated that Tika Rai Died leaving behind his sole sons namely Bairagi Raii and Bairagi Rai also died leaving behind	

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	his sole sons namely Lalan Rai (Plaintiff) and further the land of Khata no-274, Khesara-332, Rakwa-14 Dhur came in peaceful possession of the plaintiff namely Lalan Rai . it is further stated that Defendants has Deposited raw material for construction over the land of schedule no-2 and also stated that Defendants tried to new construction over the suit land and further stated that plaintiff having prima facie case and balance of convenience in his favour and Defendants are Rightless persons and not having any right to dispossessed the plaintiff from the suit land or Encroached by them. So the Ld. Counsel of plaintiff prayed for grant of Temporary Injunction over the suit land under Order-39 R-1 &2 and under section 151 of CPC. <u>Defendants Submission</u> Defendants no-1 to 3 has filed show-cause rejoinder on dated 10-07-2025 in which he stated that petition filed by plaintiff under order-39 Rule -1 &2 and under section 151 CPC is not maintainable and liable to be dismissed and also stated that all the allegation made against the defendants are false and fabricated. It is further stated that it Defendants admitted that Hal Survey Khatiyar of disputed land of Khata -274,khesara 332 were prepared in name of Bhola Bhar . But the plaintiff have given wrong Geological table in which stated that Bhola Rai having sons namely Tika Rai and Tika Rai having sons namely Biaragi Rai and Bairagi Rai giving sons namely Lalan Rai but the true fact is that Tika Rai Died Issueless and Bairagi Rai not having any Relationship with the family of Bhola Rai and also stated that Bairagi Rai belong to other village and he came recently in Mauza –Dhobaha and settled here and plaintiff by becoming a false legal heir of Bhola Rai has filed this suit falsely . it is further stated that the land of khata no-274, Khesara-332 having Rakwa-14 dhur is in possession of the Defendants and defendant no-1 having his hut house over it since so long and also stated that Defendants are landless persons, so with the permission of Tikka Rai and Pilu Rai Defendants are Residing over the suit land and after the	
--------------------------------	--	--

**IN THE COURT OF SANJEEV KUMAR, MUNSI, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	death of Sitaram Barai his sons namely Rajendra Barai is coming in peaceful possession over the suit land . it is further stated that Earlier over the suit land Defendants having his Hut house but now they started constructing a Pakka Bricks house over it after demolition of earlier Hut house and also stated that plaintiff have filed this suit due to involve in local politics and also stated that Defendants also got a P.P Parcha with respect to the suit land Through Settlement case no-22/2002-2003 in Anchal Narkatiganj and after that also Jamavandi no-1404 has been created in name of Defendant no-1 and giving rent Revenue to the state government. Further stated that plaintiff having knowldenge about the above facts then also he has filed this False suit in order to disturb Defendants. It is also stated that plaintiff also filed petition towards the CO and police station in order to stop the work of the Defendants but he failed and then by making a false Genological table plaintiff have filed this suit . it is further stated that Defendant has got this suit land through P.P Parcha i.e Basgat Parcha in land settlement case no-22/2002-2003 in name of Defendant no-1 by the Bihar privileged persons Homestead tenancy act 1947 and further stated that section 18 of this act barred the jurisdiction of the civil court which state that “ The order passed under this act shall be final . subject to the provision of section 21, all order passed by the collector in any proceeding under this act shall be final , no suit shall lie in any civil court to vary or set aside any such order except on the ground of Fraud or want of Jurisdiction.” It further stated that plaintiff himself admitted in his petition that Defendants having possession over the suit land and further stated that Defendants having only one house and in that he is residing with his family and also given some images in order to say that he having his possession over the suit land and further stated that prima facie case lies in his favour and not in favour of plaintiff. So the Ld. Defendant counsel prayed that petition of the plaintiff dated 11/06/2025 under order-39 R-1 &2 &section 151 CPC is not maintainable and liable to be dismissed.	
--------------------------------	--	--

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	It is well settled that , before granting the temporary injunction , the judge has consider whether the application is falling into below – mentioned categories , has plaintiff/applicant has shown following Points:- 1. Prima Facie Case. 2. Irreparable Injury. 3. Balance of Inconvenience. 4. Other Factor. In every application , the applicant /plaintiff must make out a prima-facie case in support of the right claimed by the applicant/plaintiff. the plaintiff / Applicant is given the burden to prove and satisfy the court by leading evidence or witnesses that he has prima facie case in his favour. <u>In Martin Burn Ltd. Vs R.N Banerjee AIR 1958 SCR 514</u> The supreme court held that a prima facie case does not mean a case proved to the hilt but a case which can be said to be established if the evidence led in support of the same were believed . it does not involve the determination of the conflict of evidence or complex question of fact and law, which call for detailed arguments. It further require that plaintiff/ applicant should come before court with clean hands. If he suppresses material fact and evidence then he Is not entitled for the relief of Injunction and further point of balance of convenience , irreparable injury need not be considered in such case. <u>In Praksh Singh Vs.State Of Haryana, 2002(4) Civil L.J.71-</u> The Court has explained that Prima Facie does not mean that a plaintiff/ Applicant should have a full proof case in his favour which will succeed in all probabilities. It means that the Plaintiff/ Applicant has a case which can not be rejected summarily or dismissed out right. It raises consideration which can be considered on Merit.	
--------------------------------	--	--

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	The supreme Court in <u>Shanti kumar Panda Vs. Shakuntala Devi, AIR-2003, SCC –</u> ‘Where court held thus , At the stage of passing an interlocutory order such as application for the grant of ad interim injunction under Rule 1 or 2 of Order 39 of the CPC, the competent court shall have to form its opinion on the availability of prima facie case, the balance of Convenience and the irreparable injury . the three pillars on which rests the foundation of any order of injunction. <u>Is there any Irreparable Injury:-</u> Further the Applicant must satisfy the court that he will suffer irreparable injury if the injunction is not granted . the court is satisfied that the plaintiff/ applicant needs to be protected from the consequences of apprehended injury. An injury will be viewed as irreparable wherein there exists no certain monetary standard for calculating damages. The expression irreparable injury however does not mean that there should be no possibility of repairing the injury. It only mean that the injury must be material one i.e which can not be adequately compensated by damages. An injury will be regarded as irreparable where there exists no certain pecuniary standards for measuring damages. <u>In Best Sellers Retails India (P) Ltd. Vs. Aditya Nirla Nuvo Ltd.-(2012)6 SCC 792</u> – the Hon’ble Supreme court held that only prima Facie case alone is not sufficient to grant injunction and court held that – Yet , the settled principle of law is that even where prima facie case is in favour of plaintiff/Applicant , the court will refuse temporary injunction if the injury suffered by plaintiff/Applicant on account of Refusal of temporary injunction was not irreparable. <u>Is there any Balance of convenience-</u> The applicant must prove in this application that there is the balance of convenience must be in favour of the applicant i.e the Comparative	
--------------------------------	---	--

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	mischief, hardship or Inconvenience which is likely to be caused to the applicant if the injunction is been refused. The balance of convenience comes into the picture when there is doubt as to the adequate remedies in damages available to either party or both. After the perusal of Complaint and petition , it is evident that Plaintiffs has filed this suit for declaration of Right , Title and confirmation of possession over the suit land as given in schedule no-2 of the complaint and also for granting permanent injunction in order to restrained the defendants from interfering in the peaceful possession of the plaintiff. It is further stated that survey hal khatiyon of Mauza – Dhobaha having khata no-274, Khesara-332 Rakwa-18 dhur were prepared in name of Bhola Bhar. Bhola Bhar having three sons namely Tikka Rai, Pulu Rai, and Tahal Rai and further stated that Tahal Rai died without marriage and as issueless leaving behind his brother namely Tika Rai and Pulu Rai and both brother came in peaceful possession over the land of khesara 332 and further stated that later on in family partition between Tika Rai and Pulu Rai the land of Khesara 332 came in share of Tika Rai and further stated that Tika Rai Died leaving behind his sole sons namely Bairagi Rai and Bairagi Rai also died leaving behind his sole sons namely Lalan Rai (Plaintiff) and further the land of Khata no-274, Khesara-332, Rakwa-14 Dhur came in peaceful possession of the plaintiff namely Lalan Rai . it is further stated that Defendants has Deposited raw material for construction over the land of schedule no-2 and also stated that Defendants tried to new construction over the suit land and further stated that plaintiff having prima facie case and balance of convenience in his favour and Defendants are Rightless persons and not having any right to dispossessed the plaintiff from the suit land or Encroached by them. On others side Defendants admitted that Hal Survey	
--------------------------------	--	--

**IN THE COURT OF SANJEEV KUMAR, MUNSI, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	Khatian of disputed land of Khata -274,khesara 332 were prepared in name of Bhola Bhar . But the plaintiff have given wrong Geological table in which stated that Bhala Rai having sons namely Tika Rai and Tika Rai having sons namely Biaragi Rai and Bairagi Rai giving sons namely Lalan Rai but the true fact is that Tika Rai Died Issueless and Bairagi Rai not having any Relationship with the family of Bhola Rai and also stated that Bairagi Rai belong to other village and he came recently in Mauza –Dhobaha and settled here and plaintiff by becoming a false legal heir of Bhola rai has filed this suit falsely. it is further stated that the land of khata no-274, Khesara-332 having Rakwa-14 dhur is in possession of the Defendants and defendant no-1 having his hut house over it since so long and also stated that Defendants are landless persons, so with the permission of Tikka Rai and Pilu Rai Defendants are Residing over the suit land and after the death of Sitaram Barai his sons namely Rajendra Barai is coming in peaceful possession over the suit land. It is further stated that Defendant has also got P.P Parcha i.e Basgat Parcha with respect to the suit land in land settlement case no-22/2002-2003 in name of Defendant no-1 through the provision under the Bihar privileged persons Homestead tenancy act 1947 and jamavandi no-1404 has been created in name of Defendants no-1 and also giving rent revenue to the state government since he got Basgat Parcha with respect to the suit land. In the event of any encroachment , It would be Defendant who will suffer loss and not the Plaintiff , Presently Over the suit land Defendants having in possession of as it also appears from the report of the Advocate commissioner dated 15/07/2025 and Images filed by them and in his report he submitted that over the suit land he found a brick construction having 4 feet height and also having 8 feet diwal and also found eight rooms half constructed over the suit land and other raw material has also been deposited there .	
--------------------------------	---	--

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	In the case of <u>A.subramanian vs. R. Pannerselvam, (2021)3 SCC 675</u>, It is observed by this court that a person in possession of land in the assumed character of owner and exercising peaceably the ordinary right of ownership has a perfectly good title against all the world but the rightful owner. In the present case it appears from the report of the Adv. Commissioner that Defendants are in possession over the suit land and also constructed half building over it and on basis of Basgit Parcha Issued in settlement case no.22/2002-03 and with respect to suit land jamavandi no-1404 also running in name of Defendant no-1 and plaintiff have filed this suit for declaration of Right, Title and possession over the suit land on basis of Khatiyan is- in name of his legal ancestor namely Bhola Bhar. The Balance of convenience with regard to use and occupation over the disputed land thus lies in favour of Defendant . In the event of an encroachment over the suit land of Khata-274, Khesara-332 and Rakwa-14 dhur, it would be Defendants who suffer irreparable loss in as much as he would stand deprived of user of the said disputed land. In the case of Anathula Sudhakar Vs. P.Buchi Reddy, (2008)4 SCC 594. it is observed by this court that in suit for permanent injunction to restrain the defendant to interfere with the plaintiff possession , the only things plaintiff have to established is that on date of the suit , he was in lawful possession of the suit property and the defendant has tried to interfere or disturb his possession is concerned. In the light of the observation made in the preceding paragraph , perusal of the petition and show-cause and with reference to aforesaid discussed case law by the Hon'ble supreme court , The Plaintiffs has failed to establishing in his favor a clear prima facie case, Balance of convenience , and irreparable injury necessary for grant of Temporary injunction	
--------------------------------	---	--

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

Continue 05.08.2025	against Defendants. Accordingly The injunction petition dated 11/06/2025 under order-39 Rule-1 &2 & under section 151 CPC is hereby Dismissed. Let the copy of this order be sent to SHO, Police station Shikarpur, Narkatiaganj for ensuring the compliance of this order. Put up on dated- 25.09.2025 for Further proceeding . MUNSIF NARKATIAGANJ	
--------------------------------	---	--

**IN THE COURT OF SANJEEV KUMAR, MUNSIF, NARKATIAGANJ,
WEST CHAMPARAN
T.S NO- 98/2025**

LALAN RAIPLAINTIFF

Vs

RAJENDRA BARAI & OTHERS.....DEFENDANTS.

--	--	--