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IN THE COURT OF THE SENIOR CIVIL JUDGE, SORO

I.A. No.46 of 2024 & CIS No.73/2024
(Arising out of C.S. No.354/201 of 2024-I)
(U/o.39 Rule. 1 & 2 r/w Sec.151 of C.P.C.)

DIBAKAR BARIK,
Aged about 62 years,
S/o-Late Jogendra Barik,
At-Bainchakhunta, Po-Sundarpur,
Ps-Khaira, Dist-Balasore.
At present:-At-Samaraipur,
PO-Prachi Nagar, PS-Bhadrak (R),
Dist-Bhadrak.

..... PETITIONER

- v e r s u s -

1. AKSHAYA KUMAR BARIK,
Aged about 64 years,
 2. MAHESWARA BARIK,
Aged about 56 years,
 3. PITAMBAR BARIK,
Aged about 52 years,
 4. CHAKRADHAR BARIK,
Aged about 44 years,
- All are S/o-Lt. Jogendra Barik,
At-Bainchakhunta, Po-Sundarpur,
Ps-Khaira, Dist-Balasore

..... OPPOSITE PARTIES

A P P E A R A N C E

For Petitioner : Shri K.C. Das Mohapatra & Associates,

Ld. Advocates, Soro

For Opposite Parties : Shri S.B. Panda & Associates,
Ld. Advocates, Soro

Date of Argument : 05.08.2026
Date of Order : 05.08.2026

ORDER

1. This order arises out of a petition under Order 39 Rule 1 & 2 r/w Sec. 151 of C.P.C filed by the above named Petitioner praying therein to temporarily restrain the Opposite Parties (hereinafter referred to as O.Ps.) from constructing any new house, from cutting and selling of any trees, from demolishing any existing structure, from putting any new fence, from digging and removing earth, selling or mortgaging the IA schedule land to strangers/outsideers and from changing the nature and character of the I.A. schedule land till the disposal of the suit.

2. The case of the Petitioner in short is that – the I.A. schedule land falls under Mouza- Bainchakhunta, Khata No.29, Plot No.406 measuring Ac0.290dec., Plot No.204/466 measuring Ac0.045dec., Plot No.406/664 measuring Ac0.190dec., Plot No.410/663 measuring Ac0.190dec, Plot No.203/465 measuring Ac0.065dec., Plot No.426 measuring Ac0.950dec. and Plot No.410 measuring Ac0.990dec. and Mouza-Bainchakhunta, Khata No.96/43, Plot No.200 measuring Ac1.460dec. and Plot No.223 measuring Ac0.090dec. (hereinafter referred to as I.A. scheduled lands).

It is submitted that the RORs of the I.A schedule land at present stands recorded in the name of the father of the parties namely Jogendra Barik. Jogendra Barik died leaving behind his sons i.e. present Petitioner and the O.Ps and also three daughters (who are Defendants No. 5 to 7 in the main suit). The I.A. schedule lands are undivided ancestral, homestead and agricultural lands of both the parties and has not been partitioned by metes and bounds till date. After the death of Jogendra Barik, the I.A.

scheduled lands devolved upon the parties to the present I.A. as well as the three daughters of Jogendra Barik equally. As such, the Petitioner has 1/8th share in the I.A. Scheduled lands. However, the O.Ps are trying to oust the Petitioner from the I.A. scheduled lands and also trying to cut valuable trees standing on the suit land. On dtd.26.05.2024, the O.Ps threatened the Petitioner to capture the I.A. schedule land forcibly by adopting foul means and collected house building material like sand, bricks, chips, rod, cement etc. for new construction over the same. If the O.Ps succeed, the Petitioner shall suffer irreparable loss. Thus, prima facie case and balance of convenience leans in favour of the Petitioner. Hence, this application.

3. O.Ps. have appeared and filed their written objection denying the averments made by the Petitioner. It is stated that the I.A. is not maintainable as the original suit is bad for partial partition. It is added that besides the suit land, there are other joint family properties of parties but the Petitioner knowingly has not made those properties subject matter of this suit. It is added that the Petitioner has not been in possession of any part of the schedule suit land as he resides at his place of service with his family. It is only the O.Ps who are residing in their paternal house with their families. Both the parties are co-parceners of the I.A. schedule land and a co-parcener cannot be enjoined from using and residing over the joint family property. It is also added that the paternal house of present O.Ps is in dilapidated condition for which regular maintenance is highly required or else the same will be destroyed very soon and the O.Ps will be roofless. So, if any injunction or status quo is granted over the suit land, the O.Ps shall suffer irreparable loss. It is also denied that the O.Ps are constructing a new house over the I.A. schedule land or cutting down trees standing over the same. They are not trying to change the nature and character of the I.A. schedule land in any manner. On such grounds, it is prayed that the present I.A. be rejected.

4. Perused the plaint, petition U/o.39, Rule 1 and 2 read with Sec.151 of the C.P.C. and the documents submitted therewith. The settled principles which govern the question of temporary injunction are – (i) *prima facie* case, (ii) balance of convenience and (iii) irreparable loss/injury. In the present case, the Petitioner has filed the original suit for partition and permanent injunction against the O.Ps. and some other co-sharers. It is not disputed that the I.A. schedule lands are the joint family property of both the parties. It is also not disputed that the I.A. schedule lands have not been partitioned by metes and bounds till date. Which of the parties is in possession of the suit land and whether the suit is bad for partial partition are questions that can be well decided during the trial of the suit after considering the evidence on record. At present, unless the I.A. scheduled lands are partitioned by metes and bounds, each party has a right over every inch of these lands. As such, unless the property is partitioned, neither of the party can be restrained in any manner from the I.A. schedule land.

5. But since the property is under dispute, if either of the parties is allowed to continue any untoward activity over the same, all the co-sharers would suffer irreparable loss which could not be measured by any pecuniary standards. The purpose of granting interim relief is to protect the property in dispute till the conflicting rights and claims of all the parties are finally adjudicated upon. Upon such scenario an order of status-quo would sub-serve the ends of justice.

Hence it is ordered:

ORDER

The I.A. is disposed of on contest but under the circumstances without any cost. The parties are directed to maintain status-quo over Mouza-Bainchakhunta, Khata No.29, Plot No.406 measuring Ac.0.290dec., Plot No.204/466 measuring Ac.0.045dec., Plot No.406/664 measuring Ac.0.190dec., Plot No.410/663 measuring Ac.0.190dec, Plot

No.203/465 measuring Ac0.065dec., Plot No.426 measuring Ac0.950dec. and Plot No.410 measuring Ac0.990dec. and Mouza-Bainchakhunta, Khata No.96/43, Plot No.200 measuring Ac.1.460dec. and Plot No.223 measuring Ac.0.090dec. till the pendency of the suit.

Dictated

Senior Civil Judge, Soro

Transcribed to my dictation, corrected and signed by me, and pronounced in the open court on this the 05th day of August, 2026.

Senior Civil Judge, Soro