IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No.459 of 2016

1. Ram Chandra Sahu
2. Smt. Babi Devi ..... Appellants

Versus

Jageshwar Sahu ..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellants : Mr.Amar Kumar Sinha, Advocate
For the Respondent : Mr.Prabhash Kumar, Advocate

05/Dated: 05/11/2018
I.A. No.9347 of 2018

Heard learned counsel for the appellants and learned counsel for the respondent.

The instant application has been filed for restraining the respondent from making construction over the suit premises during pendency of the present appeal.

The suit has been filed by the plaintiffs, who are the appellants herein, for declaration of right, title, interest and possession over the suit premises, which has been described in the schedule.

The trial court has passed the decree in following terms:

> *"This suit is decreed on contest without cost. Plaintiffs' right, title and interest is declared over the suit property and the plaintiffs' possession is confirmed and defendant is permanently restrained from dispossessing the plaintiff from the suit property and alienating by sale."*

Being aggrieved, defendant has filed an appeal being Title Appeal No.22 of 2015. Appellate Court has reversed the decree.

Against the said reversal of decree, the present second appeal has been filed by the plaintiffs.

In the petition under Order XXXIX Rule 1 and 2 read with section 15 C.P.C., three facts is relevant and that has to be considered.

i. Prima facie case.
ii. Balance of convenience.
iii. Irreparable loss and injury.

So far as, prima facie case is concerned, once the case has been admitted and substantial question of law has been framed, prima facie case is made out.

So far as, balance of convenience, irreparable loss and injury is concerned, it lies in favour of person concerned, who is in possession of the property.

From the decree of the trial court, it appears that plaintiffs are in possession of the suit property but this fact has been disputed by the learned counsel for the respondent.

Learned counsel for the respondent seeks some more time to take instruction from his client.

In view of the above discussion, let the matter be placed on 27.11.2018.

Till the next date of hearing i.e. 27.11.2018, status quo as of today regarding the suit property shall be maintained.

Let a copy of this order be handed over to the learned counsel for the appellants.

(Rajesh Kumar, J.)

Shahid/