

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M. A. No. 345 of 2023

Dr. Preeti Sharma, D/o Late Madan Mohan Sharma W/o Dr. Ramanuj Sharma, R/o Uma Nursing Home, Patel Chowk, Balia PO & PS Bagusarai, District- Bagusarai, presently residing at Inner Circle Road, Bistupur, Jamshedpur

.... Appellant

Versus

1. Rita Sharma, W/o S.S. Sharma, D/o Late Madan Mohan Sharma, R/o 117, Mandir Lane, Near Universal Public School, Mahavir Enclave, PO & PS New Delhi, District New Delhi-110045
2. Retd. Lt. Col. Renu Sharma, D/o Late Madan Mohan Sharma, R/o Itarsi G6111 Madya Pradesh presently residing at RZG 72B, 3rd floor, Flat No. 301, Front Facing West Side, Near Santoshi Mata Mandir, Mandir Marg, PO & PS Mahavir Enclave, District New Delhi
3. Mrs. Neera Pattanaik, W/o Mr. Saroj Pattnaik, R/o Block No. 1, Apartment No. 4, Metro City, Naya Palli, PO & PS, Bhubaneshwar, District Bhubaneshwar-Orissa.
4. Mr. Pradip Sharma, S/o Late Madan Mohan Sharma, R/o Ramdas Building, Contractor Area, Bistupur, PO & PS Bistupur, Jamshedpur, District East Singhbhum
5. M/s TATA Steel Limited, Department of Land, Markets & Estate Town Office, PO & PS Bistupur, Jamshedpur, District East Singhbhum

... Respondents

With

C.M.P. No. 999 of 2023

Dr. Preeti Sharma, W/o Dr. Ramanuj Sharma, R/o Uma Nursing Home, Patel Chowk, Balia PO & PS Bagusarai, District- Bagusarai.

.... Petitioner

Versus

1. Rita Sharma, W/o S.S. Sharma, D/o Late Madan Mohan Sharma, R/o 117, Mandir Lane, Near Universal Public School, Mahavir Enclave, PO & PS New Delhi, District New Delhi-110045
2. Retd. Lt. Col. Renu Sharma, D/o Late Madan Mohan Sharma, R/o RZG 72B, 3rd floor, Flat No. 301, Front Facing West Side, Near Santoshi Mata Mandir, Mandir Marg, PO & PS Mahavir Enclave, District New Delhi
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4. Mr. Pradip Sharma, S/o Late Madan Mohan Sharma, R/o Ramdas Building, Contractor Area, Bistupur, PO & PS Bistupur, Jamshedpur, District East Singhbhum
5. M/s TATA Steel Limited, Department of Land, Markets & Estate Town Office, PO & PS Bistupur, Jamshedpur, District East Singhbhum

... Opposite Parties

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Appellants	: Mr. Prashant Pallav, Advocate Ms. Shivani Jaluka, Advocate
For the Resp. No. 4	: Mr. Shresth Gautam, Advocate Mr. Padmanav Shahdeo, Advocate
For the Resp. No. 5	: Mr. J.N. Upadhyay, Advocate Mr. G.M. Mishra, Advocate Mr. Pratyush Kumar, Advocate

Order No. 12 / Dated : 14.08.2025.

1. M.A. No. 345 of 2023 is against the order dated 16.09.2023, by which petition for temporary injunction has been rejected and C.M.P. No. 999 of 2023 is

against the order of rejection of petition for appointment of receiver under Order XL Rule 1 read with Section 151 of CPC, passed in Partition Suit No. 7/11. Since both these matters arise out of the same case and are interrelated, therefore, they are taken together and will be disposed of by the common order.

2. Petitioner is the plaintiff in Original Suit No. 07/11 (TPS) and the prayer for temporary injunction is for restraining defendant no. 4 from alienating the suit or creating any third party right over the suit property.
3. It is submitted by the learned counsel for the appellant that the learned Trial Court has passed the order without applying test of prima facie case, balance of convenience and irreparable injury, while considering the temporary injunction petition. Rejection have been passed only on the ground that two general powers of attorney has been executed by defendant no. 4 in favour of third parties, which do not per se lead to an inference that the property was on the verge of alienation. In order to buttress the argument, the copy of general power of attorney has been enclosed. Para 4, 6 and 9 of the power of attorney specifically states that it is intended for execution of sale deed.
4. It is submitted by the learned counsel on behalf of the respondent nos. 4/ defendant that the present partition suit was preceded by L.A. Case No. 29/10 filed by respondent nos. 4 for getting letter of administration with respect to a WILL made by his father with respect to the suit property. The said letter of administration case was subsequently withdrawn pursuant to a settlement between both sides and an agreement dated 06.12.2013 was drawn in the light of the settlement.
5. Having heard both the sides, it is apparent that claim for interim relief veers around the plea to protect the property from alienation during the pendency of the suit. There is an argument and a counter argument with regard to not observing the terms of earlier agreement between both sides.
6. Be that as it may, it is not in dispute that the partition suit is at penultimate stage and presently posted for argument. More than 14 years have elapsed and there is no further reason to delay adjudication at the trial court level.
7. It has been informed by the learned counsel on behalf of the petitioner that now a petition under Section 65 of the Evidence Act is pending before the learned Trial Court for evidence to bring certain documents on records as secondary evidence in the instant case. However, so far as the impugned order is concerned, I find merit in the argument that the order is not sustainable as there is no discussion regarding fundamental factors on the basis of which a

temporary injunction petition has to be considered.

8. Further, a general power of attorney as shown by the Annexure-11 filed before the Court is for transfer/ conveyance of the part of the suit property. Therefore, to say that there was no evidence regarding intent of the defendant to dispose of the suit property is misplaced and unfounded.
9. The impugned order is set aside and a temporary injunction restraining the parties from alienating the suit property is ordered.

The learned Trial Court is directed to dispose of the Title Partition Suit within two months from the date of order. In the event of any difficulty in disposing of within stipulated time, an extension will be sought for from this Court.

Miscellaneous Appeal is, accordingly, allowed.

So far **Civil Miscellaneous Petition for appointment of receiver** is concerned, at the fag end of the trial it will not serve ends of justice, and accordingly, it stands rejected.

(Gautam Kumar Choudhary, J.)

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