

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6819/2006

(From the judgement and order dated 07/02/2006 in FA No. 252/2004 & IA No. 6315/2004 of The HIGH COURT OF PATNA)

BALDEO PRASAD YADAV & ANR.

Petitioner(s)

VERSUS

KEDAR NATH YADAV & ANR.

Respondent(s)

(With prayer for interim relief and office report)

Date: 19/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE TARUN CHATTERJEE

HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s) Mr. H.L. Agrawal, Sr. Adv.

Mr. Gaurav Agrawal, Adv.

For Respondent(s) Mr. Nagendra Rai, Sr. Adv.

Mr. Chandra Bhushan Pd., Adv.

Mr. Jagjit Singh Chhabra, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed to the extent indicated in the
signed order.

RITU CHAWLA

(Khushi Ram)

Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.880 OF 2007

(Arising out of SLP (C) No. 6819 of 2006)

BALDEO PRASAD YADAV & ANR.

Appellant (s)

VERSUS

KEDAR NATH YADAV AND ANR.

Respondent(s)

O R D E R

Leave granted.

This appeal is directed against an order passed by the High Court of

Judicature at Patna in I.A. No. 6315 of 2004 which arose out of F.A. No. 252 of

2004 whereby the High Court has dismissed the application for injunction filed by

the appellants.

The appellants filed a suit for partition in respect of the property bearing

No. P.I.T. (Patna Improvement Trust) Plot No. 36F, Rajendra Nagar, Road No.

10B, Block No. III, Type F, P.S. Kadamkaun, Thana No. 4, District Patna. The

suit had ended in favour of the respondents against which the appellants had filed

an appeal before the High Court which is pending. During the pendency
of the

appeal, an application for injunction was filed at the instance of the appellants for

grant of an order of injunction, restraining the respondents from alienati
ng,

encumbering, leasing out or transferring the suit property in any manner
or

changing its physical feature during the pendency of the appeal. By the impugned

order, the High Court rejected the said application for injunction. Feel
ing

aggrieved thereby, the appellants have filed the present special leave pet
ition in

respect of which leave has already been granted.

We have heard the learned counsel for the parties and after examining the

order of the High Court and considering the averments made in the application

for injunction and also considering the fact that the appeal in which the dispute

between the parties will be decided is now pending disposal, we are of the view

that during the pendency of the appeal, the parties must be directed to maintain

status quo in respect of the suit property, so far as alienating, transferring,

encumbering, leasing out or changing physical feature of the suit property is

concerned.

Accordingly, we set aside the impugned order. However, considering the

fact that the appeal is pending before the High Court, we request the High Court

to dispose of the appeal as early as possible, preferably within six months from

the date of communication of this order.

The appeal is thus allowed to the extent indicated above.

.....J.

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(TARUN CHATTERJEE)

.....J.

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(D.K. JAIN)

NEW DELHI

FEBRUARY 19, 2007