

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.610 of 2025

1. Sachidanand Singh Son of Late Ram Bachan Singh R/o village - Belwaiya, P.O. Belwaiya, P.S. - Dinara/Bhanas, District - Rohtas.
2. Ajay Kumar Singh, Son of Late Ram Bachan Singh, R/o village - Belwaiya, P.O. Belwaiya, P.S. - Dinara/Bhanas, District - Rohtas.

... .. Petitioner/s

Versus

1. Bhulan Choudhary Son of Late Chandgobind Choudhary, R/o Vill- Chhapra Tola, P.O. and P.S. - Dinara Distt. - Rohtas.
2. Dharmaraj Choudhary Son of Late Chandgobind Choudhary, R/o Vill- Chhapra Tola, P.O. and P.S. - Dinara Distt. - Rohtas.
3. Tara Devi, W/o Ram Sihashan Choudhary, R/o Vill- Karawandi Tola, Dhankutiya, P.O. and P.S. - Natwar, Distt- Rohtas.
4. Manoj Kumar, S/o Late Sheobhukhi Singh, R/o Vill - Prastampur, P.O. - Karaghashi, P.S. - Natwar, Distt- Rohtas.
5. Ajit Pratap Singh, S/o Late Braj Kishor Singh, R/o vill Belwaiya, P.O.- Belwaiya, P.S.- Dinara/Bhanas Distt. - Rohtas Bikrams.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chandrakant Mr. Sudhanshu Prakash Mr. Navin Kumar Ms. Sristi Kumari Mr. Subhash Kumar Tiwari
For the Respondent/s	:	Mr. Rang Nath Choubey Mr. Rana Ishwar Chandra

CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
CAV JUDGMENT

Date : 19-06-2026

Heard Mr. Chandrakant learned counsel for the petitioners and Mr. Rang Nath Choubey learned counsel appearing on behalf of respondents.

2. The instant application has been filed on behalf of the petitioners for setting aside the order dated 28.03.2025 passed by learned District and Additional Sessions Judge, XIX Sasaram in Misc. Appeal No. 23 of 2023, whereby and whereunder the



learned Court has allowed the appeal and set aside the order of injunction dated 19.09.2023 passed in Title Suit No. 301 of 2023.

3. Learned counsel for the petitioners submits that petitioners have filed Title Suit No. 301 of 2023 against defendants-respondents in which they have sought relief that on adjudication of the facts it be declared that defendant nos. 1 and 2 are entitled to remain over the suit property mentioned in Schedule A of the plaint as per boundary of his registered sale deed no. 1559 dated 09.04.1996 executed by plaintiffs having no concern to the defendant nos. 3 to 5.

4. As per plaint, late Sheojanan Singh had two sons namely late Ram Bachan Singh and late Braj Kishore Singh. Ram Bachan Singh died in the year 1981 and Braj Kishore Singh died in the year 1994. Plaintiffs are sons of late Ram Bachan Singh and defendant no. 5 is son of late Braj Kishore Singh and other defendant nos. 1, 2, 3 and 4 are purchasers of both parties. As per plaintiff's case the suit property i.e. 3 decimal land of plot no. 622 under khata no. 88 was sold by the plaintiff through registered sale deed no. 1559 dated 09.04.1996 in favour of defendant no. 1 and 2 under specific boundary. It is further pleaded by plaintiff that defendant no. 3 Tara Devi claims to have purchased the land from one Braj Kishore Singh vide sale deed no. 4723 dated 16.06.1992



which she allegedly sold to defendant no. 4 vide sale deed no. 859 dated 30.01.2021 but the vendor of Tara Devi vide sale deed no. 4723 dated 16.06.1992 is not son of late Sheojanan Singh. The name of vendor of Tara Devi as shown in the aforesaid sale deed is Brij Kishore Singh son of late Sheojanan Singh but the name of the son of Sheojanan Singh is “**Braj Kishor Singh**” and not “**Brij Kishore Singh**” as shown in the GT of the plaint and thus land under sale deed no. 4723 dated 16.06.1992 has not been sold to Tara Devi (defendant no. 3) by the son of Sheojanan Singh namely, Braj Kishore Singh rather it has been allegedly sold by one fake person named as Brij Kishore Singh and thus sale deed no. 4723 dated 16.06.1992 being ipso facto void, did not convey sellable right to alleged purchaser Tara Devi and as such the sale deed no. 859 dated 30.01.2021 executed by defendant no. 3 to defendant no. 4 Manoj Kumar bears the same fate and is void not conveying right title and interest to defendant no. 4.

5. The injunction petition filed by the plaintiff was initially granted by the Trial Court on 19.09.2023 against which defendant filed an appeal i.e. Miscellaneous Appeal No. 23 of 2023 by which the aforesaid injunction order passed in favour of plaintiff was set aside and that order of miscellaneous appeal is under challenge before this Court.



6. Here it is considerable fact that Ajit Pratap Singh son of late Braj Kishore Singh has been made party as defendant no. 5 in Title Suit No. 301 of 2023 and it is pleaded by plaintiff that a sale deed has been created by impersonating the actual person Braj Kishore Singh, then it is quite natural that defendant no. 5 namely, Ajit Pratap Singh son of Braj Kishore Singh should have filed a case challenging the aforesaid sale deed in which the fake sale deed has been executed by impersonating his father but it has not been done.

7. Second thing is that the aforesaid sale deed has already been executed by plaintiff in favour of defendant nos. 1 and 2 but the suit has been filed by plaintiffs themselves and not by their purchaser and in this title suit declaration of title and possession has not been sought for. It is nowhere mentioned that plaintiffs and his vendor are in possession of the suit property. As per averment of plaint itself, for the same suit property earlier alleged fake registered deed has been created by impersonating Brij Kishore Singh but no any relief has been sought for either by the plaintiffs or by the son of late Braj Kishore Singh to declare the sale deed no. 4723 dated 16.06.1992 as null and void. Learned counsel for the respondent argues that as per contents of above sale deed the possession has already been given to the purchasers.



8. After hearing both the parties, learned Trial Court has held as under:-

“11. For grant of temporary injunction prima-facie case, balance of convenience and irreparable loss must co-exist and if any of the ingredients are missing the equitable relief cannot be granted. I also find that in the grab of relief of certain declaration u/s 34 of Specific Relief Act without asking for major relief of permanent injunction associated with declaration, one cannot be given the temporary injunction.

12. I see the order impugned, I find that on page 2 of the order the Ld. Trial Court has recorded the duty of the Court to preserve the suit land till disposal of suit. This is not without qualification and a party which seeks that the suit property be preserved in the way it exists on the date of filing of suit till disposal of suit has to establish the three essential ingredients of the temporary injunction. It be mentioned that these three ingredients are not exhaustive and as the relief of injunction is an equitable relief the party seeking the relief of injunction must also establish that he has bonafidely approached to the Court and is ready to do the equity to the other side. In the order the sale-deed in favour of appellant (defendant No. 4) is still valid till set aside by



the competent Court and a Court cannot at the outset presume the facts pleaded in the plaint or in the injunction petition. In the order, even if the Ld. Trial Court granted the temporary injunction it could have well asked for security from the plaintiffs to meet the ends of the justice because the appellant (defendant No. 4) asserts to be a bonafide purchaser for value. I am of the view that bare injunction without the security or the further condition of temporary injunction is not sustainable in equity.”

9. As the possession of the plaintiff over the suit property is not pleaded and asserted in the plaint and neither any relief has been sought for regarding nullifying the earlier sale deed of respondent i.e. sale deed no. 4723 dated 16.06.1992 nor any relief of permanent injunction has been sought for in plaint. All the above facts clearly suggest that there is no illegality and infirmity in the impugned order. Accordingly it is upheld as a result of which the instant application stands dismissed.

(S. B. Pd. Singh, J)

Ankit Kumar/-

AFR/NAFR	AFR
CAV DATE	07.04.2026
Uploading Date	19.06.2026
Transmission Date	

