

**(1999) 05 OHC CK 0006**

**In the Orissa High Court**

**Case No : Civil Revision No. 180 of 1998**

Hikoka Sani @ Sani Hikoka and Others

APPELLANT

Vs

Batriya Sunadharo

RESPONDENT

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**Date of Decision : 07-05-1999**

**Acts Referred:**

**Citation : (2000) 89 CLT 161**

**Hon'ble Judges : D.M. Patnaik, J**

**Bench : Single Bench**

**Advocate : A.K. Nanda, for the Appellant; B. Senapati, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

D.M. Patnaik, J.—The present revision is by the unsuccessful Defendants against whom an order of interim injunction during the pendency of the suit has been passed by the learned lower court which has also been confirmed by the appellate court.

2. It is not disputed that the suit has been filed merely for injunction by the Plaintiff which is yet to be disposed of. By the impugned orders, the Defendants have been temporarily injected not to disturb the possession of the Plaintiff during the pendency of the suit.

3. Mr. A.K. Nanda appearing for the Defendant-petitioners has very strenuously urged with reference to a document relating to the year of death of the father of Defendant No. 1 which showed that the father of Defendant No. 1 had died in the year 1984. He has submitted that the learned lower court committed gross error in not considering this document which was sufficient to reject the Plaintiff's case as under no circumstances a sale deed by the late father of Defendant No. 1 could have been executed in the year 1985 on the basis of which the Plaintiff claims title as well as possession.

4. Learned Counsel for the Plaintiff-opposite party has supported the orders of

the courts below.

5. Heard learned Counsel for both sides and perused the orders of the courts below, particularly the order of the lower court in M.J.C. No. 27 of 1995. I find that the learned lower court has given adequate reasons for arriving at the prima facie conclusion that the Plaintiff is in possession of the disputed land and this reasoning is based on the title-deed. R.O. R. as also rent receipts issued in favor of the Plaintiff. I also find that the court below has observed that in a case u/s 3(2) of Regulation II/56. one of the Defendants, i.e. opposite party No. 2, made a petition for restoration of the land in question to his possession and this rightly led the courts below to hold that it was prima facie material to hold that Plaintiff is in possession. Mr. Nanda seriously contends that this is not a fact at all. Be that as it may, the courts below have given adequate reasoning's which cannot be said to be wholly unacceptable to this Court while considering a revision petition. I do not find any infirmity or absurdity in the absurdity of the courts below.

6. Mr. Nanda however submits that in all fairness the court below should appoint a receiver in respect of the disputed land. I express no opinion in the matter. There is no other point to justify interference of this Court in the impugned orders. The Civil Revision is accordingly dismissed. However, the suit being of the year 1995, the lower court is hereby directed to dispose of the same expeditiously, preferably within six months of receipt of this order.

Civil revision dismissed.