

(2008) 11 PAT CK 0102
In the Patna High Court
Case No : C.R. No. 1838 of 2008

Inder Singh @ Inder Prasad Singh and Others

APPELLANT

Vs

Ram Briksha Rai and Others

RESPONDENT

Date of Decision : 11-11-2008

Acts Referred:

Citation : (2009) 2 PLJR 661

Hon'ble Judges : Mihir Kr. Jha, J

Bench : Single Bench

Advocate : Arun Kumar and Bipin Kumar, for the Appellant;

Judgement

Mihir Kr. Jha, J.—Heard counsel for the petitioners. it is a peculiar case where in a partition suit the trial court had refused injunction but the appellate Court had reversed the said order and allowed injunction. However both the Courts have failed to adhere to the basic norms for deciding the issue of injunction and have literally given no cogent reasons for deciding the issue of prima facie case, balance of convenience and irreparable loss. Normally, in a partition suit question of injunction with regard to enjoyment of rights of the family properties till it is finally adjudicated, would not arise. There may however be varying situation in which the issue of injunction can be decided even in a partition suit but then such special reasons must be spelt out in the order of the court. Be that it may, as setting aside the order of lower appellate court would lead to restoration of an equally illegal order of the trial court, this court would refuse to interfere with the impugned order.

2. This Court would however find that the suit is of the year 1999 and the issue being limited to partition, the same should be decided at an early date, especially when the pleadings are complete and the parties, on account of the injunction order given by the lower appellate court, would be subjected to some sort of inconvenience as there is now injunction restraining the parties to change nature of the suit property.

3. In that view of the matter, this Court in order to expedite hearing of the case would direct the court below to dispose of the suit within a period of nine months from the date of receipt/production of a copy of this order. With the aforementioned observation this application is disposed of.