



CGHC010036622026



2026:CGHC:44131

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 104 of 2026

1 - Hemant Kumar Vidhani S/o Late Dasanmal Vidhani Aged About 60 Years R/o Dhan Mandi Chowk, Near Gumber Petrol Pump, Near S.S. Public School, Torwa, Tehsil And Distt. Bilaspur, Chhattisgarh.

... Petitioner(s)

versus

1 - Tikaram Tarre S/o Late Samelal Aged About 54 Years R/o Dabhipara Bijaur, Tehsil And Distt. Bilaspur, Chhattisgarh.

2 - Kishore S/o Late Samelal Aged About 47 Years R/o Near Panchayat Bhawan, Village Mopka, Tehsil And Distt. Bilaspur, Chhattisgarh.

3 - Rakesh S/o Late Motilal Aged About 48 Years R/o Village Mopka, Tehsil And Distt. Bilaspur, Chhattisgarh.

4 - Rishi S/o Late Raju Tarre Aged About 29 Years (Due To Inadvertence, Father's Name Wrongly And Age Not Mentioned In Lower Court Cause Title) R/o Village Mopka, Tehsil And Distt. Bilaspur, Chhattisgarh.

5 - Deepak S/o Late Raju Tarre Aged About 27 Years (Due To

Inadvertence, Father's Name Wrongly And Age Not Mentioned In Lower Court Cause Title) R/o Village Mopka, Tehsil And Distt. Bilaspur, Chhattisgarh.

6 - Ashwani S/o Late Raju Tarre Aged About 25 Years (Due To Inadvertence, Father's Name Wrongly And Age Not Mentioned In Lower Court Cause Title) R/o Village Mopka, Tehsil And Distt. Bilaspur, Chhattisgarh.

7 - Roshan S/o Late Raju Tarre Aged About 23 Years (Due To Inadvertence, Father's Name Wrongly And Age Not Mentioned In Lower Court Cause Title) R/o Village Mopka, Tehsil And Distt. Bilaspur, Chhattisgarh.

8 - Kamala D/o Late Raju Tarre Aged About 24 Years (Due To Inadvertence, Father's Name Wrongly And Age Not Mentioned In Lower Court Cause Title) R/o Village Mopka, Tehsil And Distt. Bilaspur, Chhattisgarh.

9 - Rakesh Kashyap S/o Late Manglu Ram Kashyap Aged About 48 Years R/o Ward No. 32, House No. 535, Shivaji Marg, Lane No. 2, Tikrapara, Bilaspur, Tehsil And Distt. Bilaspur, Chhattisgarh.

10 - Chelaram Kashyap S/o Late Manglu Ram Kashyap Aged About 45 Years R/o Ward No. 32, House No. 535, Shivaji Marg, Lane No. 2, Tikrapara, Bilaspur, Tehsil And Distt. Bilaspur, Chhattisgarh.

11 - Melan Bai Kashyap S/o Late Manglu Ram Kashyap Aged About 63 Years R/o Ward No. 32, House No. 535, Shivaji Marg, Lane No. 2, Tikrapara, Bilaspur, Tehsil And Distt. Bilaspur, Chhattisgarh.

12 - State Of Chhattisgarh Through Collector, Bilaspur, Chhattisgarh.

... Respondent(s)

For Petitioner(s)	:	Ms. Shivangi Agrawal, Advocate
For Respondents No.1 & 2	:	Mr. Sushil Dubey, Advocate
For Respondent No.12/State	:	Ms.Richa Sahu, PL

(Hon'ble Mr. Justice Ravindra Kumar Agrawal)

Order on Board

12/10/2026

The present writ petition under Article 227 of the Constitution of India has been preferred by the petitioner assailing the order dated 14.10.2025 passed by the learned Third District Judge, Bilaspur, in Miscellaneous Civil Appeal No. 108/2024, whereby the appeal preferred by the petitioner was dismissed and the order dated 30.09.2024 passed by the learned Fifth Civil Judge, Junior Division, Bilaspur, in Civil Suit No. 275-A/2023 was affirmed.

2. Learned counsel appearing for the petitioner submits that the petitioner is the plaintiff in the aforementioned civil suit, instituted for declaration of title and grant of permanent injunction in respect of the suit property. The suit property, bearing Khasra No. 2305/2, admeasuring 1.10 acres situated at Village Mopka, Tahsil and District Bilaspur, was purchased by the petitioner from its recorded owners, namely, Same Lal and Moti Lal, by way of a registered sale deed dated 02.05.1990. Pursuant thereto, the petitioner claims to have entered into possession of the suit property and obtained mutation of his name in the revenue records.

3. It is further submitted that the mutation in favour of the petitioner was subsequently challenged by the defendants, and the order of mutation was set aside/deleted from the revenue records. The petitioner again applied for mutation, which was allowed by order dated 13.07.2016. The said order was challenged by respondent Nos. 9 to 11 before the Sub-Divisional Officer (Revenue), Bilaspur. The appeal preferred by the said respondents was allowed by order dated 06.10.2021. Aggrieved thereby, the petitioner preferred a further appeal before the Commissioner, Bilaspur Division, Bilaspur, which came to be dismissed by order dated 16.02.2023. The Commissioner also directed the revenue authorities to restore the revenue entries to the position obtaining prior to the order dated 13.07.2016 passed by the Tahsildar.

4. Learned counsel for the petitioner further submits that, in the civil suit instituted by the petitioner, an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, was filed seeking temporary injunction to restrain the defendants from interfering with the petitioner's possession over the suit property and also for restraining them from alienating the suit property during pendency of the suit. The learned trial Court, upon consideration of the material placed on record, partly allowed the said application by order dated 30.09.2024 and restrained the respondents from alienating the suit property. However, the learned appellate Court, by the impugned order, allowed the appeal preferred by the defendants and set aside the order of temporary injunction granted by the learned trial Court.

5. It is contended that the petitioner is the lawful purchaser of the

suit property under the registered sale deed dated 02.05.1990, executed by Same Lal and Moti Lal, and that he has been in possession thereof. Learned counsel for the petitioner submits that the learned appellate Court failed to properly appreciate the documentary material placed on record and erroneously interfered with the well-reasoned order passed by the learned trial Court. There is an apparent inconsistency in the material relied upon by the defendants concerning the date of death of Samay Lal. It is submitted that, while the documents relied upon by the defendants indicate that Same Lal died on 17.04.1988, the affidavit filed on behalf of the defendants records his date of death as 17.02.2003. This discrepancy was material to the controversy and ought to have been duly considered by the learned appellate Court before setting aside the order of temporary injunction passed by the trial Court.

6. It is, therefore, submitted that the petitioner has established a *prima facie* case in his favour and that the balance of convenience also lies in his favour. It is further contended that refusal of temporary protection would expose the petitioner to irreparable loss and injury. On these grounds, she submits that the impugned order be set aside and the order of temporary injunction passed by the learned trial Court be restored, thereby protecting the petitioner's possession over the suit property during the pendency of the civil suit.

7. On the other hand, learned counsel appearing for the respondents No. 1 & 2 opposes the submissions advanced on behalf of the petitioner and submits that the learned appellate Court has rightly

set aside the order of temporary injunction passed by the learned trial Court. It is contended that Same Lal, the predecessor-in-interest of the respondents, had already transferred the suit property in favour of Manglu by a registered sale deed dated 11.02.1970. Once the suit property had been transferred in favour of Manglu, neither Same Lal nor Moti Lal retained any right, title or interest therein so as to convey a valid title in favour of the petitioner by the subsequent sale deed dated 02.05.1990. The prior transfer of the suit property in favour of Manglu, who is stated to be the predecessor-in-interest of respondent Nos. 9 to 11, was a material circumstance which the learned appellate Court rightly took into consideration while examining the petitioner's claim for temporary injunction. It is, therefore, contended that the petitioner has failed to establish a prima facie case warranting the grant of temporary injunction in his favour.

8. I have heard learned counsel for the parties and perused the documents annexed the petition.

9. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the controversy in the present writ petition is required to be examined in the context of the limited nature of the temporary injunction granted by the learned trial Court and the relief sought by the petitioner before this Court. I not in dispute that the learned trial Court, by order dated 30.09.2024, partly allowed the application of the petitioner filed under Order XXXIX Rules 1 and 2 of the CPC, and restrained the parties from alienating the suit

property during the pendency of the civil suit. However, the learned trial Court did not grant any injunction restraining the defendant from interfering with the petitioner's possession over the suit property. The petitioner did not challenge the order of the learned trial Court insofar as it declined to grant an injunction for protection of his possession. The appeal preferred by the defendants was allowed by the learned appellate Court, which set aside the order of temporary injunction granted by the learned trial Court.

10. In view of the aforesaid factual position, the scope of consideration in the present writ petition is confined to examining the legality and propriety of the impugned order passed by the learned appellate Court. Since the petitioner did not challenge the order dated 30.09.2024 passed by the learned trial Court insofar as it declined to grant an injunction against interference with his possession, he cannot, in the present writ petition, seek restoration of a relief which was never granted by the learned trial Court and which he himself did not challenge. Therefore, the prayer of the petitioner for protection of possession cannot be considered as a relief arising out of the impugned order under challenge.

11. So far as the rival claims of the parties regarding title to the suit property are concerned, petitioner relies upon the registered sale deed dated 02.05.1990, executed in his favour by Same Lal and Moti Lal, whereas the respondents rely upon the alleged prior transfer of the suit property by Same Lal in favour of Manglu through a registered sale deed dated 11.02.1970. These rival claims raise disputed questions

concerning the title the suit property, which are required to be adjudicated by the competent civil Court the basis of the evidence adduced by the parties. At this interlocutory stage, this Court would refrain from expressing any final opinion on the respective claims of title, the same prejudice the adjudication of the pending civil suit.

12. Nevertheless, having regard to the nature of the dispute and the rival claims of the parties over the suit property, this Court is of the considered view that the interest of ice would be served by preserving the subject matter of the suit during its pendency. If either party is permitted to alienate the suit property before the rights of the parties finally adjudicated, it may give rise to further complications and multiplicity of proceedings. Accordingly, without expressing any opinion on the merits of the rival claim of the parties and without disturbing the existing state of possession, it would be appropriate to direct the parties not to alienate the same and not to create any third party rest until the final disposal of the civil suit.

13. Consequently, the writ petition is disposed of with a direction to the parties to the civil not to alienate or create any third-party interest in respect of the suit property, bearing Khasra No. 2305/2, admeasuring 1.10 acres, situated at Village Mopka, Tahsil District Bilaspur, during the pendency of Civil Suit No. 275-A/2023.

14. It is made clear that this direction is confined to alienation of the suit property and shall not be construed as an injunction, and the question of title and all other rights and contentions of the parties are

left open for adjudication by the learned trial Court on own merits, uninfluenced by any observation made in this order. The learned trial shall endeavour to decide the suit expeditiously, in accordance with law.

Sd/-
(Ravindra Kumar Agrawal)
Judge

SUGUNA
DUBEY

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by SUGUNA
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