

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 100 of 2015**

1. Naveen Kumar Vishwakarma, son of Suresh Kumar Vishwakarma, aged about 25 years
2. Ravi Kumar Vishwakarma, son of Suresh Kumar Vishwakarma, aged about 23 years

Both are resident of Village Pendra, Tehsil Pendra, District Bilaspur, Chhattisgarh

---- Petitioners**Versus**

1. Suresh Kumar Vishwakarma, son of Premal aged about 51 years, resident of Bus Stand, Pendra, Tehsil Pendra, District Bilaspur, Chhattisgarh
2. Smt. Hemlata Sahu, wife of Nandkishore, aged about 43 years, resident of Rest House Gorella, Tehsil Pendraroad District Bilaspur, Chhattisgarh
3. Pratiksha Sahu, aged about 26 years, daughter of Keshav Prasad Sahu, resident of Vidyanagar Pendra, Tehsil Pendraroad, District Bilaspur, Chhattisgarh
4. The State of Chhattisgarh, Through District Collector, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioners : Shri Ashok Soni, Advocate.
 For Respondent No.2.: Shri RN Pusty, Advocate on caveat.
 For Respondent No.4 : Shri Gary Mukhopadhyay, Deputy Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****09/03/2015**

1. The plaintiffs/petitioners have preferred this writ petition under Article 227 of the Constitution of India challenging the legality and validity of the order passed by the appellate Court confirming the order passed

by the trial Court on 5.9.2013 dismissing their application under Order 39 Rule 1 & 2 of the CPC.

2. A reading of the impugned order would indicate that both the Courts below have found that the petitioners do not have a prima facie case in their favour and they are not going to suffer any irreparable loss and balance of convenience is also not in their favour.
3. In view of the concurrent finding recorded by the Courts below on the above aspect of the matter, no ground for interference is made out in this petition in view of the limited scope under Article 227 of the Constitution of India, as reiterated by the Supreme Court in **Surya Dev Rai Vs. Ram Chander Rai**¹, **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**², & **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal**³.
4. Learned counsel for the petitioners would submit that the trial Court may be directed to dispose of the suit at an early date.
5. The suit was filed in January, 2012, therefore, it is pending for the last more than 3 years. Considering the entire fact situation of the case, it is directed that the trial Court shall do well and shall make all possible endeavour to dispose of the suit as early as possible, preferably within a period of 9 months from the date of submission of certified copy of this order. It is also made clear that the order passed on the aspects of existence of prima facie case, balance of convenience and

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

irreparable loss is only for the purpose of deciding the application for grant of temporary injunction and the findings recorded on this count shall not affect the merits of the case, which shall be decided on the basis of evidence led by the parties in course of trial.

6. Accordingly, the writ petition is disposed of.

J U D G E

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