

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(227) No. 923 of 2015**

1. Sallhuddin S/o Late Shri Moijuddin, Aged About 55 Years
2. Minhajuddin S/o Late Shri Moijuddin, Aged About 53 Years
3. Nafisuddin, S/o Late Shri Moijuddin, Aged About 46 Years
4. Sahid Muneer, S/o Late Shri Moijuddin, Aged About 44 Years
5. Koushar Begum, D/o Late Shri Moijuddin, Aged About 42 Years

Petitioner No. 2 to 2 through Power Of Attorney Holder Petitioner No.1/ Salahuddin).

6. Keshar Begum D/o Late Shri Moijuddin, Aged About 62 Years
7. Roshnak Begum, D/o Late Shri Moijuddin, Aged About 60 Years

All R/o House No. 570/2, Sadar Bajar, Raipur, Tahsil & District Raipur (Chhattisgarh).

---- Petitioners/Plaintiffs

Versus

1. Pandit Ravishanker Shukla University Through Its Vice Chancellor, Tahsil & District Raipur. (Chhattisgarh).
2. Estate Officer, Shree Pradeep Sharma, Pandit Ravishanker Shukla University, Through Its Vice Chancellor, Tahsil & District Raipur (Chhattisgarh).
3. State Of Chhattisgarh, Through Its Collector, Tahsil & District Raipur (Chhattisgarh).

---- Respondents/Defendants

For Petitioners	Shri Yogesh Pandey, Advocate.
For Respondent/State	Shri Aditya Sharma, Panel Lawyer.

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****06/11/2015**

1. By way of present petition filed under Article 227 of the Constitution of India, the Petitioners have challenged the legality and validity of the order dated 24.08.2015 passed by the 9th Additional District Judge, Raipur in Misc. Appeal No. 36/14 affirming the order dated 16.05.2014 passed by the trial court rejecting the Petitioners application filed under Order 39 Rule 1 & 2.
2. The facts of the case are that, the Petitioners preferred a civil suit No.68-A/14 before the 6th Civil Judge, Class-II, Raipur, seeking for declaration of title over the suit property. Along with the suit, the Petitioners also filed an application under Order 39 Rule 1 & 2 CPC seeking injunction against the Respondents in respect of interference in peaceful possession of the Petitioners over the suit property.
3. The trial court, vide order dated 16.05.2014 taking into consideration the entire facts and circumstances of the case particularly the fact that suit land was vested with the Respondents No.1&2 since 1966 onwards and Stadium was also constructed over the suit land by the Respondents No.1 & 2, refused to grant interim injunction in favour of the Petitioners.
4. Against the said order dated 16.05.2014, the Petitioners had preferred Miscellaneous Appeal before the 9th Additional District Judge which was registered as Misc. Appeal No.36/14. The appellate court also after due consideration of the entire facts and circumstances of the case, vide order impugned dated 24.08.2015 rejected the same.

5. Both the courts below after considering the facts of the case reached to the conclusion that the Petitioners have not been able to establish the ingredients required for granting interim injunction in favour of the Petitioners/Plaintiffs.
6. The contention of the Plaintiffs/Petitioners in the present petition is that both the courts below have not properly appreciated the documentary and oral evidence available on record and in a mechanical manner rejected his application. He also submits that Respondents infact do not have any documentary proof so far as the title and ownership over the suit property i.e. Khasra No.19/17 is concerned. In the absence of any record in possession of Respondents No.1&2, refusal of granting injunction prima-facie appears to be bad in law. Similarly, the Petitioners also submits that there is no evidence either oral or documentary in favour of the Respondents No.1&2 to establish the fact that the suit land was acquired by the Respondents/University in the year 1966 and no cogent documents are available in this regard also, and as such, findings recorded by both the courts below are per se illegal and deserve to be set aside.
7. Taking into consideration the entire facts and circumstances of the case, particularly the contention put-forth by the Petitioner, what appears from the document and the record is that, as per record since 1966 onwards, the suit property was vested with the Respondents No.1&2/University, who, in turn has constructed a Stadium over the said suit property which now the Petitioners are claiming to be their property on the basis of certain entries made in the revenue records showing name of the Petitioners/Plaintiffs. So far as contention of the Petitioners whether there

was proper acquisition over the suit property or not and whether the suit property over which title is being claimed is the same property over which the Respondents constructed a Stadium or whether the land over which the Plaintiff intends to make some construction is the same land which has been acquired by the University can only be decided after recording evidence of either parties and appreciating the documents. In the absence of any evidence to reach to the conclusion that suit property belongs to the Plaintiffs/Petitioners or that of the University at this stage particularly when both the courts below have refused to grant injunction to the Petitioners, I do not find any jurisdictional illegality in the order impugned warranting interference of this court under Article 227 of the Constitution of India and hence this court is not inclined to grant any relief at this juncture.

8. It is well settled principle of law that this Court, in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, should refrain itself from interfering with the order passed by the Court below, except in such cases where perversity, illegality, irregularity or jurisdictional error is writ large on the face of the record, which is not in the present case.
9. As an upshot, the writ petition is dismissed leaving the parties to bear their own costs.

Sd/-
(P.Sam Koshy)
JUDGE