

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 32 of 2016**

- Kanhaiyalal Kesharwani S/o Late Shri Ram Dev Kesharwani, Aged About 83 Years R/o Bilaspur Mungeli Road, Ram Dev Rice Mill, Near 36 Mall, Bilaspur, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. Shankar Lal Kesharwani S/o Late Shri Ram Prasad Kesharwani, Aged About 52 Years R/o Behind Nand Lal Rice Mill, Gondpara Bilaspur (Chhattisgarh)
2. Jawahar Lal S/o Late Shri Ram Prasad Kesharwani, Aged About 72 Years R/o Behind Ram Dev Rice Mill, Near 36 Mall, Bilaspur, District Bilaspur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Devesh G. Kela, Advocate
For Respondent No.1	:	Shri PK Tulsyan & Shri Aishwarya Pandey, Advocates

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

11/01/2016

1. Petitioner is aggrieved by the order passed by the Board of Revenue, dismissing his revision application, which in turn was preferred against the order passed by the Commissioner, Bilaspur Division, Bilaspur on 24-6-15.
2. The parties are in litigation before the revenue authorities on the issue of mutation of their names in the revenue record pertaining to land bearing Khasra No.1006, 1524, 1525, 1018, 1528, 1534/2, 1626, 1055, 1077, 1052, 1529/2, 1053, 1054, 1532/1, 1523, 1527, 1529/1G, 1529/1B, 1051, total area 8.65 acres, situated at village Mangla, Tehsil & District Bilaspur.
3. Admittedly, civil suit No.43A/12 is pending between the parties in the Court of VIIth Civil Judge, Class-II, Bilaspur, wherein the opposite parties have

prayed for declaration of title and possession. They have also prayed for a declaration that the affidavit dated 1-5-04, executed by one Dulari & ors. is a forged and void document with further prayer to restrain the defendants from alienating the said property.

4. The Board of Revenue has observed that the litigation concerning mutation is pending between the parties since 2004 and in the meanwhile, the matter has also been agitated before the civil Court, therefore, the Sub-Divisional Officer (R) should decide the dispute about mutation at the earliest.
5. After hearing learned counsel for the parties and on perusal of the papers, it would appear to this Court that when the matter is pending before the civil Court and the dispute concerning title over the land is subjudice, it would be appropriate for the parties to move appropriate application before the civil Court to seek interim relief/temporary injunction under Order 39 Rule 1 & 2 or Section 151 CPC.
6. Accordingly, the writ petition is disposed of with observation that the parties would be at liberty to move appropriate application before the civil Court seeking interim relief/stay/temporary injunction. If such application is filed by any of the party, the civil Court shall consider and decide the same, on its own merits, without being influenced by observation made by any of the revenue Court or by this Court.

Sd/-

Judge
Prashant Kumar Mishra

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