

HIGH COURT OF CHHATTISGARH, BILASPUR

WP 227 No. 146 of 2016

- 1. Sheelu W/o Damodar Singh, Aged About 37 Years Caste Gond, R/o Adbhar, Tahsil And P.S. Malkharouda, District Janjgir Champa (Chhattisgarh)
- 2. Reshamlal, S/o Dayaram, Aged About 65 Years
- 3. Ghasanin Bai, W/o Khemlal, Aged About 65 Years
- 4. Bantau, S/o Dayaram, Aged About 48 Years
- 5. Hemcharan, S/o Dayaram, Aged About 45 Years
- 6. Sukmati, W/o Chandram, Aged About 42 Years

02 to 06 are Residesnt of Mahuldeep Caste Saura, Tahsil And P.S. Malkharouda, District Janjgir Champa (Chhattisgarh)

---- Petitioner

Versus

- 1. Aganibai D/o Gada Sai, W/o Makhanlal, Aged About 61 Years Caste Saura, R/o Adbhar, Tahsil And P.S. Malkharouda, District Janjgir Champa (Chhattisgarh)
- 2. Jawaharlal, S/o Bundram, Aged About 55 Years
- 3. Ramlal, S/o Bundram, Aged About 50 Years
- 4. Ramdas, S/o Bundram, Aged About 45 Years
- 5. Dhajaram, S/o Bundram, Aged About 42 Years

02 to 05 Caste Soura, R/o Karauwadi, Tahsil Jaijaipur, District Janjgir Champa (Chhattisgarh)

- 6. Sadhan Bai, D/o Bundram, Aged About 22 Years Caste Saura, R/o Doma, Tahsil Malkharouda, District Janjgir Champa (Chhattisgarh)
- 7. State Of Chhattisgarh, Through Collector, Janjgir, District Janjgir Champa (Chhattisgarh)

---- Respondent

For Petitioner	Mr. IshwarJaiswal, Advocate
For Respondent No.1	Mr. Parag Kotecha, Advocate
For Respondent/State	Mr. Majid Ali, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

15/6/2016

1. Heard.
2. The petitioners/defendants are aggrieved by the appellate order passed by the First Additional District Judge, Sakti, District Janjgir-Champa affirming the trial Court's order dated 29.09.2014 allowing the plaintiff/respondent No.1's application under Order 39 Rule 1 & 2 of CPC to restrain defendants 1 to 6 by a temporary injunction to interfere in the plaintiffs' possession over the suit land.
3. According to respondent No.1/plaintiff, the land belonged to her aunt Barat Bai, who died issueless, therefore, she succeeded the property and is in physical possession over the same, however, with an eye to grab the property, defendants 2 to 5 have executed the sale-deed in favour of defendant No.1-Sheelu and since after execution of the sale deed, they are trying to interference in the plaintiff's possession.
4. Both the Courts below have concurrently found that the plaintiff has strong prima facie case in her favour and the balance of convenience also lies in her favour. It has also been found that if the defendants are not enjoined, the plaintiff/respondent may suffer irreparable loss. In addition to the Courts findings, the petitioners has also not been able to putforth any such documentary evidence recording their names as owner or possession holder of the suit property.

5. In the state of material available on record, it does not appear that the Courts below have recorded any perverse finding while deciding the application for grant of temporary injunction.
6. Applying its earlier decision in **Surya Dev Rai Vs. Ram Chander Rai**¹ and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**², the Supreme Court in the matter of **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

7. In view of the above settled legal possession in regard to the scope of interference under Article 227 of the Constitution of India, this Court does not find any case for interference with the impugned order. The writ petition is accordingly dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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