

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 261 of 2016

1. Bhupnath Dubey S/o Late Shri Jagadhari Dubey, Aged About 72 Years
R/o Near Pratappur Naka, Mahanaran Pratap Ward, City Ambikapur,
Tahsil Ambikapur, District Surguja Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Collector Ambikapur District Surguja
Chhattisgarh

---- Respondent

For Petitioner – Shri Rahul K.Mishra, Advocate.

For Respondent – Shri S.C.Khakhariya, Deputy Advocate General.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

18/04/2016

1. Heard.
2. Issue notice.
3. Shri S.C.Khakhariya, Deputy Advocate General for the State accepts
notice on behalf of respondent/State.
4. Heard on motion.
5. Brief Facts required for adjudication of the instant WP(227) are that Civil
Suit No.27A/2015 is pending before the First Civil Judge Class-I, Ambikapur,
Surguja, C.G. against the respondent/State for declaration and permanent
injunction. In the said suit, on behalf of the petitioner/plaintiff an application
under Section 151 of the Code of Civil Procedure, 1908 (in brevity 'the Code')
was filed for maintaining status quo. On 09-03-2016, the the Court below
allowed the same and directed both the parties to maintain status quo until and
unless the interim application filed by the petitioner/plaintiff under Order 39
Rule 1 and 2 of the Code be disposed of. Thereafter the matter was listed for
hearing on interim application under Order 39 Rule 1 and 2 of the Code. On

14-03-2016, an adjournment was sought by the petitioner/plaintiff, also the petitioner had filed an application under Order 26 Rule 9 of the Code. On 18-03-2016 the trial Court disposed of the said application for which he had already heard arguments on 14th and 15th March, 2016, (as the case may be, since complete order sheets of the relevant dates were not filed on behalf of the petitioner till time of hearing). The Court below appreciated the said interim application at length and dismissed the same and asked the petitioner/plaintiff to submit his argument on the interim application under Order 39 Rule 1 and 2 of the Code for disposal of the said application.

6. On 21-03-2016 again an application was filed on behalf of the plaintiff for adjournment. The Court below appreciated the entire facts and held that since after obtaining an order of status quo in his favour, the plaintiff is anyhow praying for adjournment, with this, the Court below discontinued the order of status quo and expected the parties for submitting their argument on the application under Order 39 Rule 1 and 2 of the Code. Against the said order, the petitioner filed the instant WP(227) and took the ground that without any application for vacating the stay the order of status quo was vacated; the order is not a judicial order, no reason is assigned and the plaintiff is not making any delay. Hence, it is prayed that the impugned order dated 21-03-2016 be quashed and further the order for status quo be passed.

7. Heard learned counsel for the petitioner.

8. Learned counsel for the petitioner supported the entire grounds taken in the instant WP(227) and submitted that the respondent ought to have filed an application for vacation of the stay. The petitioner was not making any delay for hearing on injunction application. The order passed by the trial Court is not a judicial order. No appropriate reason is assigned. Hence, the petition may be admitted for consideration on its merit.

9. To appreciate the argument advanced on behalf of the petitioner, grounds taken in the instant WP(227) and the documents annexed are perused.

10. From perusal of the entire material, it goes to show that the Court below disposed of the interim application filed on behalf for the defendant/respondent under Order 7 Rule 11 of the Code on 09-03-2016 and dismissed the said application and also on application under Section 151 of the Code directed both the parties to maintain status quo for the suit land and thereafter, the matter was posted for hearing argument on the application under Order 39 Rule 1 and 2 of the Code. The order under Section 151 of the Code was passed only when the defendant had not filed written response and prayed for further adjournment, the Court below appreciated this fact and as the respondent/defendant was praying for more time for argument on the application under Order 39 Rule 1 and 2 of the Code, allowed the application under Section 151 of the Code and directed the parties to maintain the status quo. After the said order it was bounded duty of the parties to submit their argument on 14-03-2016 as directed, but another application under Order 26 Rule 9 of the Code was filed by the petitioner and tried that the said application may be disposed of first. The arguments heard on 15-03-2016, more time was sought to submit case laws. On 18-03-2016, the Court below appreciated the said application and passed a very detailed order more than what is expected and thereafter, further listed the matter for hearing on interim application under Order 39 Rule 1 and 2 of the Code. On 21-03-2016 again time was sought on behalf of the petitioner. The Court below after appreciating the said fact regarding prayer for adjournment, again appreciated the entire matter and held that as now the petitioner is taking time and praying for adjournment for argument on the application under Order 39 Rule 1 and 2 of the Code, the Court below suo moto by invoking the inherent jurisdiction vested in it under

Section 151 of the Code discontinued the earlier order of the status quo and listed the matter on 28-03-2016.

11. From perusal of the entire facts and the settled law, argument advanced by the petitioner that the said order dated 21-03-2016 is not a judicial order cannot be accepted. By appreciating the entire facts regarding the adjournment, the Court below passed a detailed order more than what is expected and held that now it is the plaintiff who is praying for adjournment and thereby keeping the interim application pending, with no option left, the Court below by invoking inherent jurisdiction suo moto discontinued the earlier order of status quo which was also granted with the inherent jurisdiction of the Court. Hence, the said order is a perfect judicial order can be passed with the prayer; and also the argument advanced that without any application for vacating the stay the Court below has vacated the order of status quo cannot be held as acceptable argument, the reason is inherent jurisdiction may be invoked suo moto or on application by any of the parties if in the considered view of the trial Court it is the plaintiff who had filed interim injunction application which requires urgent hearing and disposal. The petitioner himself praying for adjournment again and again and also filing other application ad praying that the same may be disposed of prior to the temporary injunction application and the Court below while hearing argument at length passed a very detailed order . Thereafter, if the plaintiff is again praying for adjournment the Court is well equipped with the inherent jurisdiction for which the Court does not require to have an application for the same. The Court below duly acted on the inherent jurisdiction. In the considered view of this Court, the Court below has not committed any wrong for invoking the power vested in it and before vacating the status quo a reasoned order is passed.

12. On due consideration, the petitioner instead of submitting his argument on the temporary injunction application filed by himself, by one or other reason

after obtaining the order of status quo is trying again and again for adjournment keeping the said temporary injunction application pending, in the considered view of this Court, the trial Court has not committed any mistake of law or mistake of facts, therefore, no any interference is required.

13. Consequently, the instant petition is dismissed at the motion stage itself.

14. The petition dismissed.

15. No order as to cost.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE