

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 310 of 2016**

- Raju Kumar Rajwade S/o Jeewan Lal Rajwade, Aged About 33 Years Caste Kurmi, R/o Adile Mohalla, Ward No.3, Purani Basti, Korba, Tahsil And District Korba (Chhattisgarh)

---- Petitioner**Versus**

1. Jhaduram S/o Bhagauram, Aged About 56 Years Caste Satnami, R/o Adile Mohalla, Ward No.3, Purani Basti, Korba, Tahsil And District Korba (Chhattisgarh)
2. Smt. Kachra Bai (Dead) Through L Rs :
 - 2 . (i) Smt. Basanta Bai Aged about 45 Years W/o Banshilal Katle, R/o Barpali Gevra Basti, Tahsil Katghora, District Korba (Chhattisgarh)
 - 2 . (ii) Smt. Urmila Bai Aged about 35 Years W/o Santosh Soni, R/o Adile Mohalla, Purani Basti, Korba, Tahsil And District Korba (Chhattisgarh)
 - 2 . (iii) Smt. Pushpa Bai Aged about 35 Years W/o Kamal, R/o Adile Mohalla, Purani Basti, Korba, Tahsil And District Korba (Chhattisgarh)
 - 2 . (iv) Minor Sonu, Aged about 6 Years Through Natural Guardian Mother Smt. Pushpa Bai. R/o Adile Mohalla, Purani Basti, Korba, Tahsil And District Korba (Chhattisgarh)
 - 2 . (v) Minor Sahil, Aged about 2 Years Through Natural Guardian Mother Pushpa Bai W/o Kamal. R/o Adile Mohalla, Purani Basti, Korba, Tahsil And District Korba (Chhattisgarh)
3. Nazul Tahsildar Korba, Tahsil And District Korba (Chhattisgarh)
4. State Of Chhattisgarh, Through Collector, Korba, Tehsil And District Korba (Chhattisgarh)

---- Respondent

For Petitioner : Shri Dashrath Kushwaha, Advocate.
 For Respondent No.2 : Shri Vikram Dixit, Advocate.
 For Respondent/State : Shri S. Majid Ali, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

18/07/2016

1. Both the Courts below have rejected the petitioner/plaintiff's application under Order 39 Rule 1 & 2 of the CPC on the reasoning that the petitioner has purchased the suit property from defendant No.1 on 17.10.2006 during the pendency of the previous suit preferred by defendant No.1 against defendant No.2. It has also been observed that temporary injunction as prayed for is in the nature of restraining jurisdictional revenue Court to deliver possession, therefore, since the order passed by the revenue Court is in exercise of statutory power under the CG Land Revenue Code, 1959, such temporary injunction cannot be issued.
2. Although the trial Court has not referred to Section 41 of the Specific Relief Act, 1963 (for short 'the Act, 1963'), however, it is to be seen that under Section 41 of the Act, 1963, an injunction cannot be granted to restrain any person from prosecuting a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings.
3. In the case at hand, the revenue Court appears to have passed an order in favour of defendant No.2 and moreover, previous suit preferred by defendant No.1 against defendant No.2 is also pending, therefore, the Courts below have not committed any error of law while rejecting the plaintiff's prayer for grant of temporary injunction. When the two Courts have concurrently found that the petitioner does not have any prima facie case or balance of convenience in his favour, this Court under Article 227 of the Constitution of India is not entitled to interfere in the matter in view of the law laid down by the Supreme Court in the matters of **Surya Dev Rai Vs. Ram Chander Rai**¹, **Shalini Shyam**

¹ (2003) 6 SCC 675

**Shetty Vs. Rajendra Shankar Patil² and Sameer Suresh Gupta
through PA Holder Vs. Rahul Kumar Agarwal³.**

4. For the foregoing, this Court does not find any substance in this petition, the same deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve

² (2010) 8 SCC 329

³ (2013) 9 SCC 374