

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 476 of 2016**

Smt. Geeta Yadav W/o Jagmohan Yadav, Caste Yadav, Aged About 55 Years Occupation Dairy Owner, R/o Hamalpara Ward No. 25, Rajnandgaon, Tah Rajnandgaon, Civil And Revenue District Rajnandgaon, (Chhattisgarh) **---- Petitioner**

Versus

1. Smt. Babita Jain W/o Lalit Kumar Jain, Caste Jain, Aged About 43 Years Occupation Buisness And Domestic Work, R/o Ramadhin Marg, Rajnandgaon, Tah Rajnandgaon, Civil And Revenue District Rajnandgaon, (Chhattisgarh)
2. State Of Chhattisgarh, Through Collector, Rajnandgaon (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Rakesh Thakur, Advocate
For Respondent No.1	:	Shri Vikram Dixit, Advocate.
For respondent No.2	:	Shri Syed Majid Ali, P.L.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****22/08/2016**

The petitioner is aggrieved by the order dated 08.07.2016 passed by the appellate Court, which has allowed the appeal preferred by respondent No.1 and vacated the temporary injunction granted by the trial Court in petitioner's favour.

2. By order dated 05.05.2016, the trial Court has allowed the application under Order 39 Rules 1 & 2 read with Section 151 of the C.P.C. for grant of temporary injunction and restrained defendant No.1/respondent No.1 to raise any further construction on the suit property.

3. By the impugned order dated 08.07.2016, the appellate Court has set

aside the order passed by the trial Court and has thus rejected the application for grant of temporary injunction.

4. In the return preferred by respondent No.1 before this Court, it has been stated that the construction of the house has already been completed and only finishing work is being carried out. The defendant No.1/respondent No.1 has further undertaken that no further construction of the house will be raised and he would be bound by the final decree which will be passed by the trial Court.

5. Learned counsel for the petitioner would dispute the position that the construction is already completed and only finishing work is remaining. According to him, the construction is at a half way stage and the undertaking has been made only to defeat the relief claimed in the writ petition.

6. In view of what has been contended by both the parties and particularly the undertaking given, the writ petition is disposed of with direction that respondent No.1/defendant No.1 shall not raise any further construction over any part of the suit land and shall maintain status quo in all respects, during the pendency of the suit.

7. The trial Court is directed to make all possible endeavour to decide the suit at the earliest, preferably within a period of 9 months from the date of submission of certified copy of this order.

8. It is also made clear that the present order is passed in view of submission made by both the parties and the trial Court shall not be influenced or impressed by any observation made in this order. The suit shall be decided strictly on the basis of evidence adduced by the parties.

9. Writ petition stands disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

