

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 98 of 2015**

- Smt. Shyambai D/o Vidhun, Aged About 67 Years R/o Village Chhindkalo, Tahsil Ambikapur, District Surguja (Chhattisgarh).....
(Plaintiff)

---- Appellant**Versus**

1. Vijendra Kumar Keshri S/o Durga Prasad Keshri, Aged About 40 Years R/o Village Chhindkalo, Tahsil Ambikapur, District Surguja (Chhattisgarh)
2. State Of Chhattisgarh Through The Collector, Ambikapur, District Surguja (Chhattisgarh).....(Defendants)

---- Respondent

For Appellant	:	Mr. Ashok Kumar Shukla, Advocate.
For Respondent No.2 / State	:	Mr. Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****21/01/2016**

Heard.

1. This appeal is directed against the impugned order dated 13.08.2015, by which the appellant's application for grant of temporary injunction has been rejected.
2. Learned counsel for the appellant argued that even though the appellant made out a strong *prima facie* case that fraud was practiced in the matter of so called execution of sale deed in favour of the defendant and that the plaintiff continues to be in possession of the property, the application has been rejected by the Court below. He further submits that the defendant, having grabbed the property of the plaintiff, may also proceed to create third party interest and sell the property.
3. Learned trial Court, after having taken into consideration that there exists a registered sale deed in favour of defendant-respondent No.1 and that the plaintiff has admitted in para 9 and 10 of the plaint that

she has full notice and knowledge of the said sale deed way back in the year 2007 and further taking into consideration the affidavits of the parties, has refused to grant temporary injunction.

(i) Grant of temporary injunction is a matter of discretion of the Court;

(ii) It is also well settled that the discretion is required to be exercised judiciously. Once it is found that the Court has taken the material on record and there is no patent illegality or perversity, the order of grant or refusal to grant injunction cannot be interfered in appeal.

4. In view of the above consideration, I am not inclined to interfere in the order of the Court below. The learned counsel for the appellant raised apprehension that the defendant may proceed to create third party interest which will lead to multiplicity of the proceedings.
5. It would be open for the appellant to move appropriate application by disclosing the basis of such apprehension of creation of third party interest by the defendant. In case, any such application is moved for a limited prayer or to restrain the defendant from possessing the disputed property, the same shall be considered by the Court below in accordance with law.
6. Accordingly, the appeal is finally disposed of.

Sd/-
(Manindra Mohan Shrivastava)
JUDGE