

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 522 of 2016**

- Lakhan Lal Chandrakar S/o Late Bhagvan Singh @ Theluram Chandrakar, Aged About 66 Years R/o Purani Basti, Kurmipara, Mahasamund, District Mahasamund, (Chhattisgarh)

---- Petitioner**Versus**

1. Daduram Chandrakar S/o Late Jagannath Chandrakar, Aged About 74 Years R/o Village Mokhali, Tahsil Arang, District Raipur, (Chhattisgarh)
2. Smt. Kamla Bai, W/o Late Bhagvan Singh @ Theluram Chandrakar, Aged About 42 Years R/o Purani Basti, Kurmipara, Mahasamund, District Mahasamund, Chhattisgarh, (Wrongly Not Made Party In Impunged Order)
3. State Of Chhattisgarh, Through Collector, Mahasamund, District Mahasamund (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Yogesh Chandra, Advocate
For Respondents-State	:	Shri PK Bhaduri, GA for the State.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****31/08/2016**

1. Petitioner/defendant is aggrieved by the concurrent orders passed by the trial Court as well as appellate Court, granting temporary injunction in favour of the plaintiff, restraining the petitioner/defendant from alienating the suit property during pendency of the suit.
2. The trial Court as well as the appellate Court have passed the detailed reasoned orders finding that the plaintiff has prima facie case and balance of convenience in his favour, therefore, if injunction is not granted, the plaintiff shall suffer irreparable loss. It is also observed that to avoid

multiplicity of litigation, the defendants are required to be enjoined.

3. The order of temporary injunction was granted by the trial Court on 25-9-13, which is operative for last about three years.
4. Having perused the orders passed by the trial Court and the appellate Court and having heard learned counsel for the petitioner, this Court does not find any such palpable or manifest error committed by the trial Court while appreciating the rival cases and recording findings necessary for adjudication of application under Order 39 Rule 1 & 2 CPC. The said power being discretionary and equitable in nature, this Court is not entitled to interfere with the order under Article 227 of the Constitution of India.
5. 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

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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.

6. The courts below have not committed any such error while passing the impugned order warranting interference under Article 227 of the Constitution of India, therefore, the instant petition has no substance. It deserves to be and is hereby dismissed, however, the trial Court is directed to expedite the trial and conclude the same at the earliest.

Sd/-

Judge

Prashant Kumar Mishra

Ashu