

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 745 of 2015

1. Ramkumar Agrawal S/o Laljimal Agrawal, Aged About 66 Years.
2. Pawan Agrawal S/o Ramkumar Agrawal, Aged About 46 Years

Both Occupation Agriculturist And Businessman, R/o Nagar Sitapur-Ambikapur, Rajmarg, Police Station And Tahsil Sitapur, District - Surguja (Chhattisgarh).

---- Petitioner

Versus

1. Mahendra Agrawal S/o Jagannath Agrawal, Aged About 50 Years
2. Bhim Agrawal S/o Jagannath Agrawal, Aged About 42 Years
3. Jai Bhagwan Agrawal S/o Jagannath Agrawal, Aged About 47 Years.
4. Jagannath Agrawal S/o Madu Agrawal, Aged About 73 Years

All R/o Village Pratapgarh, Post Pratapgarh, Tahsil Batouli, District Surguja (Chhattisgarh).

5. State Of Chhattisgarh, Through Collector, Surguja (Chhattisgarh).

---- Respondent

For Petitioners	Shri H.B. Agrawal, Sr. Adv. with Ms. Meera Jaiswal, Advocate
-----------------	---

For Respondent No.1 to 4	Shri Manoj Paranjape, Advocate
--------------------------	--------------------------------

For Respondent/State	Ms. Astha Shukla, Panel Lawyer
----------------------	--------------------------------

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

12/07/2016

1. In the suit filed by the petitioners for declaration and permanent injunction, the trial Court initially granted temporary injunction during pendency of the application under Order 39 Rule 1 & 2 of the Code of Civil Procedure, 1908 ('the CPC' in short) on 6-9-2014 directing the parties to maintain *status quo* with further observation that the defendants shall not raise construction over 52 sq.ft. land which belongs to the plaintiffs, however, by order dated 16-9-2014 prayer for temporary injunction was rejected with observation in para 13 that the photographs filed by the plaintiffs only show that construction is going on, but it is not clear as to whether the land belongs to the plaintiffs or the defendants. The trial Court also observed that the panchnama was prepared after demarcation to the effect that construction made by Mahendra Agrawal (preponderant No.1 herein) is on his own land. Although the plaintiffs have raised objection before the Tahsildar, but the said report has not yet been set aside.
2. The appellate Court has also dismissed the appeal preferred by the petitioners and, thus, the order passed by the trial

Court rejecting the application under Order 39 Rule 1 & 2 of the CPC has been affirmed.

3. When this petition under Article 227 of the Constitution of India was preferred an interim order was passed by this Court on 10-9-2015 directing the parties to maintain *status quo* with further observation that in the meantime, any constriction made by the respondent would be at their peril and subject to the order that may be passed in this case.
4. Considering the fact that the interim order is operative since last more than 10 months, the instant writ petition is disposed of with the observation that the parties shall maintain *status quo* in respect of possession and any construction made by any of the party during pendency of the suit would be at their peril and shall remain subject to final outcome of the suit.
5. Trial Court is also directed to make all possible endeavour to dispose of the suit at the earliest preferably within a period of nine months.
6. There shall be no order as to costs. Sd/-

Judge

Prashant Kumar Mishra

Gowri