

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 792 of 2015**

1. Sanjay Saha S/o Late Sachhindra Nath Saha, Aged About 33 Years
2. Nilesh Saha, S/o Madan Lal Saha Aged About 53 Years
3. Lalit Ahuja, S/o Late Prem Chand Ahuja, Aged About 39 Years

All R/o Avanti Vihar (Telibandha), Raipur, Tahsil & District Raipur (Chhattisgarh).....(Plaintiff)

---- Petitioner**Versus**

1. Kamalchand Jain S/o Late Nemichand Jain, R/o Avanti Vihar, Raipur, Tahsil & District Raipur (Chhattisgarh)..... (Defendants)
2. State Of Chhattisgarh, Through The Collector, District Raipur, (Chhattisgarh).....(Defendants)

---- Respondent

For Petitioners	Ms. Prachi Agrawal, Advocate
For Respondent No.1	None, despite service of notice
For Respondent/State	Shri S.M. Ali, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board**

30/08/2016

1. This petition is directed against the order passed by the appellate Court dismissing the petitioner's appeal under Order 43 Rule 1 (r) of the Code of Civil Procedure, 1908 ('the CPC' in short), which, in turn, was preferred against the trial Court's order dated 16-12-2014 rejecting their application under Order 39 Rule 1 & 2 of the CPC.
2. The petitioners/plaintiffs have moved a suit for declaration that the land in question is public road and the plaintiffs have prescribed their right of easement, therefore, the defendant No.1 be restrained from causing obstruction in plaintiffs' right to use the land.
3. Since after rejection of the petitioners' prayer for temporary injunction, this Court has allowed interim relief in favour of the petitioners on 23-9-2015 restraining the defendant No.1 from obstructing movement of the petitioners through the land in dispute.
4. Despite service of notice, the respondent No.1 has not entered appearance, therefore, the writ petition is disposed of with a direction that the interim order passed by this Court on 23-9-2015 shall remain in operation during pendency of the suit.

Sd/-

Judge
Prashant Kumar Mishra

Gowri