

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 139 of 2016**

Ram Narayan, S/o Itwara Ram Yadav, aged about 21 years, R/o Bhilai Bajar, Tahsil – Katghora, District Korba (C.G.)
..... **Defendant No.1**

---- **Petitioner****Versus**

1. Injora Bai, widow of Baratu Yadav, Aged about 65 years, Resident of Salora, Post Bhilai Bajar, Tahsil Katghora, District Korba (C.G.)
..... **Plaintiff**

2. State of Chhattisgarh through Collector, Korba, (C.G.)

.... **Defendant No. 2**---- **Respondents**

For Petitioner : Mr. Ashutosh Shukla, Advocate.
For Respondent No.1: Mr. Bharat Rajput, Advocate.
For Respondent No.2: Mr. Aditya Sharma, PL

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****25/11/2016**

Heard.

(1) In a suit filed by the respondent No.1/plaintiff for declaration of title and permanent injunction, the trial Court by its order dated 25.04.2009 granted temporary injunction in favour the plaintiff, which was affirmed in appeal by the appellate Court by its order dated 03.07.2015, against which this writ petition under Article 227 of the Constitution of India has been filed.

(2) Learned counsel appearing for the petitioner/defendant No.1 would submit that concurrent findings recorded by two

courts below are perverse and liable to be set aside *whereas* learned counsel appearing for respondent No.1/plaintiff would support the order impugned.

(3) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(4) The concurrent findings recorded by both the courts below that plaintiff has made out prima facie case, balance of convenience and it will cause irreparable loss, if the temporary injunction is not granted in his favour is a finding of fact in which I do not find any illegality or perversity warranting interference by this Court in this petition.

(5) Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. 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

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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 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 least a gross failure of justice or grave injustice should occasion.

(6) Having heard learned counsel for the parties and having perused the impugned order, this Court does not find any such illegality or perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.

(7) Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-