

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 540 of 2016**

- Resubhai Katendra S/o Late Biharilal Katendra, Aged About 50 Years
By Caste Kalar, R/o Village Chinouri, Jhipatola, Tahsil Charama,
District U.B. Kanker Chhattisgarh

---- Petitioner**Versus**

1. Sarpanch, Gram Panchayat Khairakheda, Tahsil Charama, District Uttar
Bastar Kanker Chhattisgarh
2. The State Of Chhattisgarh, Through Collector, Kanker, District U.B.
Kanker Chhattisgarh

---- Respondent

For Petitioner : Shri Parag Kotecha, Advocate.
For Respondent/State : Shri Arun Sao, Deputy AG.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****14/09/2016**

1. The petitioner claims to be in possession of Government land
wherefrom he is sought to be evicted by the respondent/Government,
therefore, he preferred a suit for permanent injunction. In the said suit,
his prayer for grant of temporary injunction has been rejected
concurrently by the trial Court as well as by the appellate Court.
2. It is argued that the petitioner being in possession of the land, there is
strong prima facie case and balance of convenience in his favour,

therefore, if temporary injunction is not allowed, he will suffer irreparable loss.

3. Both the Courts below have passed a detailed and reasoned order to conclude that the petitioner does not have any prima facie case or balance of convenience in his favour. Admittedly, the petitioner is not owner of the land and his name is not recorded in the Khasra papers to demonstrate that he is in possession. Entry in column 12 of Khasra papers neither confers any title nor permits the petitioner to remain in occupation of the land belonging to any other person or Government.
4. In **Surya Dev Rai Vs. Ram Chander Rai**¹, **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**², and **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal**³ the Supreme Court 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 :

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

(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 lest a gross failure of justice or grave injustice should occasion.

5. In the case in hand, both the Courts below have recorded concurrent finding against the petitioner which does not appear to be either perverse or suffering from material irregularity, therefore, it is not a fit case for interference.
6. For the foregoing, the writ petition is dismissed. However, it is made clear that the observations made by the trial Court or the appellate Court or by this Court in the present order is only for the purpose of deciding the application under Order 39 Rule 1 & 2 CPC and trial shall be decided strictly on the basis of evidence adduced by the parties.

Sd/-
Judge
(Prashant Kumar Mishra)