

HIGH COURT OF CHHATTISGARH, BILASPUR

MA No. 35 of 2016

1. Smt. Vijay Laxmi Sharma W/o Shri Pramod Kumar Sharma, Aged About 47 Years, Caste- Brahman, Director/ Principal, Mothers Care Nursery School, Through Minimata Higher Secondary School, Sector-3, District Korba, Chhattisgarh
2. Pramod Kumar Sharma S/o Late Govind Prasad Sharma, Aged About 58 Years Occupation- Service, B A L C O, Caste Brahman, R/o House No. 254-B/ Sector-1, B A L C O Nagar, Korba, Tahsil & District Korba, Chhattisgarh
3. Smt. Nirmal Sahu W/o Shri Ramgopal Sahu, Aged About 40 Years Caste- Sahu, Assistant, Mothers Care Nursery School Through Minimata Higher Secondary School, Sector-3, District Korba, Chhattisgarh
4. Kumari Nimmi Sahu D/o Shri Roop Rai Sahu, Aged About 22 Years Caste- Sahu, Presently At Mothers Care Nursery School Through Minimata Higher Secondary School, Sector-3, District Korba, Civil & Revenue District Korba, Chhattisgarh(Defendants)

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Versus

1. Dushyant Kumar Sharma S/o Late Bhojram Sharma, Aged About 59 Years Caste- Brahman, Secretary, Kalyan Shiksha Samiti, Balco Nagar (Minimata Higher Secondary School, Sector-3) District Korba, Chhattisgarh
2. Collector, Korba, District Korba, Chhattisgarh
3. District Education Officer, Korba, District Korba, Chhattisgarh(Plaintiffs)

---- Respondents

For Appellants	:	Shri B.P. Sharma, Advocate.
For Respondent No.1	:	Shri Ravindra Sharma, Advocate.
For Respondents 2 & 3	:	Shri Prasun Bhaduri, G.A.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

02/09/2016

With the consent of the parties, the matter is heard finally.

01. Challenge in the present appeal is to the order dated 27.04.2016 passed by the 1st Additional District Judge, Korba in Civil Suit No.19-A/2015, whereby the Court below has rejected the application as filed by the appellant/defendant under Order 39 Rule 1 & 2 read with

Section 151 of the Civil Procedure Code.

02. Counsel for the appellants submits that in one premises two schools namely Minimata Higher Secondary School and Mother's Care Nursery School are being run by the plaintiff and defendant respectively. In Minimata School 366 students and in Mother's Care Nursery School 246 students are studying. He also submits that to get the defendant evicted from the land in question, arm-twisting method has been applied by the plaintiff and invariably they disconnected the electricity connection and they also do not permit the students of appellants'/defendant school to use the toiletry facility. He further submits that the children of Mother's Care Nursery School are of tender age and as plaintiffs are not permitting the students of Mother's Care to use the toiletry facility, they are facing lots of difficulties.

03. Counsel appearing for respondent No.1/plaintiff submits that all the allegations are false and plaintiff neither disconnected the electricity connection of the defendant nor prohibited the students of defendant's school to use the toiletry facility.

04. Pursuant to direction given by this Court, the District Education Officer has prepared the report and the same is taken on record. Contents of the report goes to show that the common toiletry facility are there and at present students of both the schools are using the same.

05. In view of the statement given by Shri Ravindra Sharma, counsel for respondent No.1 and also by Shri D.K. Koushik, District Education Officer, Korba, the present appeal is disposed of directing the plaintiff to allow the students of defendants' school to use toiletry facility without any hindrance and not to disconnect the electricity of the defendants' school. The District Education Officer may also inspect the premises as and when required and take appropriate steps in this regard.

06. At this stage, request has been made by both the counsel that direction may be issued to the Court below for early disposal of the suit.

07. In view of above, the trial Court is directed to dispose of the suit as expeditiously as possible, preferably within a period of six months

from the next date of hearing.

08. It is made clear that any observation made by this Court while deciding this appeal is only for the limited purpose and it will have no effect in other proceeding.

07. The appeal is accordingly disposed of.

Sd/-

(Pritinker Diwaker)
JUDGE

Vijay