

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 220 of 2017

1. Ghanshyam Singh S/o Late Thakur Singh, Aged About 45 Years R/o Gajadharpur Tehsil & Distt. Surajpur (Chhattisgarh)
2. Lok Narayan Singh S/o Late Thakur Singh, Aged About 40 Years R/o Gajadharpur Tehsil & Distt. Surajpur (Chhattisgarh)
3. Moran Singh S/o Late Thakur Singh, Aged About 35 Years R/o Gajadharpur Tehsil & Distt. Surajpur (Chhattisgarh)
4. Anjan Singh, S/o Late Thakur Singh, Aged About 30 Years R/o Gajadharpur Tehsil & Distt. Surajpur (Chhattisgarh)

---- Petitioners

Versus

1. District Education Officer Surajpur, Surajpur (Chhattisgarh)
2. Head Master, Primary School, Keshav Nagar, Tehsil & Distt. Surajpur (Chhattisgarh)
3. State Of Chhattisgarh, Through Collector, Surajpur (Chhattisgarh)
4. Sukhlal S/o Balsai, Aged About 60 Years R/o Keshav Nagar, Tehsil & Distt. Surajpur (Chhattisgarh)

---- Respondents

For Petitioners	:	Mr. Sanjay Patel, Advocate.
For Respondents No. 1 to 3	:	Mr. Aditya Sharma, PL
For Respondent No. 4	:	Mr. Keshav Prasad Gupta, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/07/2017

(1) In a suit filed by the Respondents No. 1 to 3/plaintiffs, they also filed application under Order 39 Rule 1 & 2 of the Code of Civil Procedure for temporary injunction.

(2) The trial Court, having found, that plaintiffs failed to prove *prima facie* case, balance of convenience in their favour and that they will suffer irreparable loss and injury if injunction is not granted, dismissed

the application.

(3) The respondents No. 1 to 3/plaintiffs preferred appeal under Order 43 Rule 1 of the Code of Civil Procedure there-against. The Appellate Court has reversed the finding so recorded by the trial Court stating that the land is being used as a playgrounds of the students, as such, public interest is involved in the instant writ petition.

(4) Learned counsel for the petitioners would submit that first appellate Court has committed jurisdictional error in reversing the well reasoned finding recorded by the trial Court and, as such, order of the appellate court is perverse and contrary to the records.

(4) On the other hand, counsel for the respondents supported the order impugned.

(5) The First Appellate Court has clearly recorded a finding that the land in question is in possession of the School and some part of the land is being used as playgrounds by the students; and only limited injunction is granted that defendants will not alienate the suit land to avoid the multiplicity of the suit.

(6) In view of the findings recorded by the first appellate Court, I do not find any illegality in the order impugned particularly when there is limited injunction is granted in favour of the plaintiffs; and the fact that land is being used as playgrounds by the students. Thus, the writ petition fails and is hereby dismissed. However, the trial Court is directed to expedite the trial and conclude the same expeditiously preferably within a period of six months from the date of receipt of copy of this order.

(7) No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

