

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No.645 of 2017

Vishal Nath S/o Shivram, Aged About 71 Years R/o Village Khorsi,
Tahsil Pamgarh, District Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

1. Kalanath S/o Radheshyam Sahu, Aged About 60 Years R/o Village Khorsi, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh. Present R/o House No. G - 1, Girls Polytechnic Premises (Parishar) Bazar, Raipur, District Raipur Chhattisgarh.
2. Pokhram Sahu, S/o Gajadhar Sahu, Aged About 25 Years R/o Village Khorsi, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh.
3. State Of Chhattisgarh, Through Collector, Janjgir, District Janjgir Champa Chhattisgarh.

---- Respondents

For Petitioner :Mr. Manoj Paranjpe, Advocate
For State :Mr. Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

11/09/2017

(1) In suit filed by the petitioner/plaintiff herein for declaration of title and permanent injunction against the respondents/defendants and also filed an application under Order 39 Rule 1 & 2 of CPC for temporary injunction before the trial Court. The trial Court by order dated 29.08.2016 has rejected the said application. Against that order, he preferred Misc. Appeal under Order 43 Rule 1(r) of CPC before the First Appellate Court. The said Court has affirmed the order of the trial Court and dismissed the appeal by its impugned order dated 23.08.2017.

(2) Feeling aggrieved against the order of First Appellate Court, this writ petition under Article 227 of the Constitution of India has been filed by the petitioner/plaintiff.

(3) Learned counsel appearing for the petitioner/plaintiff would submit that the First Appellate Court has dismissed the appeal and affirmed the order of trial Court, which is perverse and contrary to record.

(4) I have heard learned counsel for the parties and perused the impugned order.

(5) The trial Court has clearly held that no prima- facie case and balance of convenience were made out in favour of the petitioner/plaintiff and if temporary injunction would not be granted in favour of him, he is not likely to suffer irreparable loss, which has been affirmed by the First Appellate Court.

(6) After hearing learned counsel for the parties, I do not find any perversity or illegality in the impugned order passed by the first appellate court which would warrant exercise of jurisdiction under Article 227 of the Constitution of India. However, the trial Court is directed to expedite the trial of the suit expeditiously.

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

Sd/-

(Sanjay K. Agrawal)
Judge

L/-