

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.795 of 2017**

Ishwarlal Patanwar S/o Late Kalanath Patanwar, Aged About 67 Years
R/o Village Uslapur, Post Dhaniya, Tahsil Masturi, District Bilaspur
Chhattisgarh

---- Petitioner**Versus**

1. Basant S/o Late Shukhsagardas Aged About 40 Years Caste Panika, R/o Village Hardadih, Post Gudi, Tahsil & Distt. Bilaspur Chhattisgarh.
2. Vishram Das, S/o Late Piladas Aged About 65 Years Caste Panika, R/o Village Hardadih, Post Gudi, Tahsil & Distt. Bilaspur Chhattisgarh.
3. State Of Chhattisgarh Through Collector, Bilaspur District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner :Mr. Vijay Kumar Mishra, Advocate
For State :Mr. Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****03/11/2017**

(1) In a 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 30.11.2016 has rejected the said application finding that the petitioner/plaintiff has neither prima facie case nor balance of convenience. Against that order, he preferred Misc. Appeal under Order 43 Rule 1 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 22.06.2017.

(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 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 the petitioner/plaintiff has neither prima- facie case nor balance of convenience lies in his favour and if temporary injunction is not granted in his favour, he is not likely to suffer irreparable loss, which has been affirmed by the 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 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 and conclude the same 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/-