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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (227) No.711 of 2016**

1. Bhagirathi S/o. Sundar Lal, Aged About 35 Years R/o. Village Karraajor, Police Station & Post Raigarh, Tahsil & District Raigarh (Chhattisgarh)
2. Rohit, S/o. Dular Singh (Wrongly Typed Ubar Singh In Impugned Order), Aged About 27 Years R/o. Village Karraajor, Police Station & Post Raigarh, Tahsil & District Raigarh (Chhattisgarh)

**---- Petitioners****Versus**

Lalsai S/o. Jharu, Aged About 65 Years R/o. Village Karraajor, Police Station & Post Raigarh, Tahsil & District Raigarh (Chhattisgarh).

**--- Respondent**


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| For Petitioners | : | Mr. Manoj Paranjpe, Advocate  |
| For Respondent  | : | Ms. Ranjana Jaiswal, Advocate |

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

**17/04/2017**

(1) The respondent/plaintiff herein filed a suit for title declaration and permanent injunction way back on 20.03.2006. The suit remained pending without subsequent progress in the trial and in the meanwhile, respondent/plaintiff filed an application under Order 39 Rule 1 & 2 of Code of Civil Procedure for temporary injunction on 07.06.2016, which has been allowed by the trial Court on 28.06.2016 and restrained the petitioner/defendant No.2 from raising construction over the suit land. Against that order, the petitioners/defendants No.1 & 2 preferred Miscellaneous Civil Appeal under Order 43 Rule 1(R) of CPC before

the appellate Court, which was dismissed by the appellate Court by the impugned order dated 18.10.2016 and affirmed the order passed by the trial Court. Against which, this writ petition under Article 227 of the Constitution of India has been filed by the petitioners/defendants herein.

(2) The two Courts below have concurrently recorded that the plaintiff has prima facie case and balance of convenience and if temporary injunction cannot be granted in favour of the plaintiff, he is likely to be irreparably loss.

(3) After hearing learned counsel for the petitioner and considering the fact that the finding recorded by two Courts below is the finding of the fact and material available on record, I do not find any jurisdictional error in the impugned order committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India. Since the suit is pending since 20.03.2006 and there is no substantial progress in the trial, the trial Court is directed to expedite the trial within a period of three months from the date of receipt of certified copy of this order.

(4) 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/-