

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.68 of 2017**

1. Gajendra S/o Goverdhan, aged about 45 years
2. Lakhan S/o Goverdhan, aged about 61 years
3. Ratan S/o Goverdhan, aged about 70 years

All above R/o Village – Kawardha, Tahsil – Kawardha, District Kabirdham (CG)

---Petitioners

Versus

1. Preet Kumar S/o Ram Prasad Sharma, aged about 76 years, R/o Ward No.10, Kawardha, Tahsil-Kawardha, District Kabirdham (Kawardha) (CG)
2. Ramkripeshwar S/o Parmanand Upadhyay, aged about 33 years, R/o Mahavir Swami Square, Main Road, Kawardha, Tahsil-Kawardha, District Kabirdham (Kawardha) (CG)
3. State of Chhattisgarh, through-Collector, Tahsil-Kawardha, District Kabirdham (Kawardha) (CG)

---Respondents

For Petitioners	:	Mr.P.K.Verma, Senior Advocate with Mr.Vaibhav Goverdhan, Advocate
For Respondent No.3	:	Mr. P.K.Bhaduri, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

23/1/2017

1. The petitioners/plaintiffs filed a suit in which an application under Order 39 Rule 1 & 2 of the Code of Civil Procedure has also been filed for grant of temporary injunction.
2. The trial Court by order dated 13.8.2015 rejected the application for grant of temporary injunction. Thereafter, the petitioners/plaintiffs preferred Misc. Civil Appeal before the Additional Sessions Judge, which was dismissed by the lower appellate Court. Against which, this writ

petition under Article 227 of the Constitution of India has been filed.

3. Mr.P.K.Verma, learned Senior Counsel along with Mr.Vaibhav Goverdhan, learned Counsel appearing for the petitioners, would submit that concurrent finding recorded by the Courts below rejecting the application for grant of temporary injunction is unsustainable, bad in law and contrary to the record.

4. Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby. The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

occasion.

5. After hearing learned counsel appearing for the parties at length, I do not find any jurisdictional error in the impugned orders passed by the Courts below. Accordingly, the writ petition being devoid of merit is liable to be and is hereby dismissed. However, taking into consideration the fact that the suit is pending since 26.4.2011, the trial Court is directed to conclude the trial as early as possible preferably within a period of three months from the date of receipt of certified copy of this order.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-