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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.219 of 2017**

1. Smt. Kaushlya Bai D/o Late Shri Chamru Ram Panka Aged About 43 Years (Adopted W/o Dinesh Chandra Gupta @ Dada) Occupation : House Wife, R/o Village : Narkeli, Tahsil : Baikunthpur District Korea (Chhattisgarh)
2. Dinesh Chandra Gupta S/o Narens Chandra Gupta, Aged About 48 Years Occupation : Business, R/o Premabag Colony, Shiv Mandir Line, Behind Old Bus Stand Baikunthpur, District Korea (Chhattisgarh)

---- Petitioners**Versus**

1. Smt. Shajadi Begum W/o Rashid Khan, Aged About 68 Years Occupation : Agriculturist & House Wife, R/o Juna Para Ward No. 17, Baikunthpur, Tahsil : Baikunthpur, District Korea (Chhattisgarh)
2. Rashid Khan, S/o Late Amin Khan & Late Smt. Rajji Bai, Aged About 76 Years Occupation Agriculturist (Retired Labour Welfare Officer, S E C L) R/o Juna Para Ward No. 17, Baikunthpur, Tahsil : Baikunthpur, District Korea (Chhattisgarh)
3. Hamid Khan S/o Late Amin Khan & Late Smt Rajji Bai, Aged About 74 Years Retired Employee Of S E C L, R/o Haldi Badi, Thana Dafai, Tahsil : Khadganwa, District Korea (Chhattisgarh)
4. Smt. Taj Begum Wd/o Late Ibrahim Khan, (Daughter Late Amin Khan & Late Smt Rajji Bai) Aged About 78 Years R/o Bada Bazar, Chirmiri, Beside Police Station Station, Post : Chirmiri, District Korea (Chhattisgarh)
5. Smt. Noor Janha Begum W/o Doctor Mohibuddin Ansari, (Daughter Late Amin Khan & Smt. Rajji Bai) Aged About 59 Years R/o Village / Post : Bhatgaon, Tahsil : Surajpur, District Surajpur (Chhattisgarh)
6. State Of Chhattisgarh, Through Collector, Korea, District Korea (Chhattisgarh)

---- Respondents

For Petitioners : Mr. Pritam Tiwari, Advocate
 For Respondents No.1 & 2: Mr. Manoj Paranjpe, Advocate

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

25/04/2017

(1) In a suit filed by the plaintiffs for declaration and injunction before the trial Court, the trial Court refused to grant temporary injunction finding no prima facie in the case against which, the plaintiffs preferred Miscellaneous Appeal under Order 43 Rule 1(r) of CPC, which was allowed by the appellate Court finding that the plaintiffs have prima facie case, balance of convenience and if temporary injunction would not be granted in favour of the plaintiffs, they are likely to be irreparable loss. Against that order, the petitioners/defendants have preferred this writ petition under Article 227 of the Constitution of India.

(2) Learned counsel appearing for the petitioner would submit that the impugned order is unsustainable and bad-in-law and the well settled principle of law for reversal the order of injunction which has not been kept in view while reversing the order of trial court by the appellate court, therefore, the impugned order is liable to be set-aside.

(3) On the other hand, learned counsel for the respondents No.1 & 2 would support the impugned order.

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

(5) The appellate Court has assigned sufficient and valid reasons for reversing the order of the trial Court and thereby, granted temporary injunction in favour of the plaintiffs holding that the plaintiffs have prima face case and balance of convenience and if temporary

injunction would not be granted in favour of them, they are likely to be irreparable loss.

(6) After hearing learned counsel for the parties at length, I find that it has rightly reversed by the appellate court, I do not find any jurisdictional error in the impugned order passed by the appellate court which would warrant exercise of jurisdiction under Article 227 of the Constitution of India. However considering the fact that the suit was filed way back on 29.10.2012 and after more than five years there is no substantial progress in the trial of the suit, the trial Court is directed to expedite the trial preferably within a period of six months from the date of receipt of copy of this order. It is made clear that this Court has not expressed any opinion on the merit of the case.

(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/-