

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 622 of 2017

Anil Kumar Gupta S/o Rajendra Gupta R/o Kharsiya, Tehsil Kharsiya,
District Raigarh, (C.G.)Defendant No. 6

---- Petitioner

Versus

1. Trilok Sharma S/o Jagdish Sharma Aged About 47 Years Caste Brahmin, Occupation Transport R/o Raigarh Raod, Kharsiya, Raigarh, ChhattisgarhPlaintiff
2. Collector, Raigarh, District Raigarh, Chhattisgarh
3. Sub Divisional Officer (Revenue) Kharsiya, District Raigarh, Chhattisgarh
4. Tehsildar Kharsiya District Raigarh, Chhattisgarh
5. Sub Divisional Officer, P.W.D. Kharsiya District R/o Behind Electricity Office Kharsiya, District Raigarh, Chhattisgarh
6. Sub Engineer Shri Bhadoriya National Highway No. 49 Old 200 R/o Behind Rest House P.W.D. Kharsiya, District Raigarh, ChhattisgarhDefendant No. 1 To 5

---- Respondents

For Petitioner : Shri Shakti Raj Sinha, Advocate.
For Respondents/State : Shri Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

25/09/2017

- (1) Counsel for the petitioner submits that the plaintiff' application for grant of temporary injunction was rejected by the trial Court but the same was granted by the misc. appellate court in an appeal and, thereafter, present petitioner has been impleaded as party defendant in the suit and, therefore, order of injunction be set aside.
- (2) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.
- (3) Order 39 Rule 4 of the CPC provides that any order for an injunction

may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

(4) Admittedly, the petitioner was not party-defendant when the injunction was granted by the appellate court, therefore, the petitioner is at liberty to make application under Order 39 Rule 4 of the CPC before the misc. appellate Court, and in turn, the misc. appellate Court shall consider and decide the same and pass the appropriate order keeping in view the fact that order of injunction has been passed without hearing the petitioner and he has now been impleaded as party defendant in the suit.

(5) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-