

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No.763 of 2014

Gram Panchayat, Nandeli, (Vyas Nagar), through its Sarpanch, Smt. Deep Mala Yadav, W/o Manoj Yadav, aged about 30 years, R/o Gram Panchayat, Nandeli, Janpad Panchayat Pamgarh, Tahsil Pamgarh, District Janjgir-Champa(CG).
---- **Petitioner**

Versus

1. Sanat Kumar Kashyap, S/o Shri Mohit Ram Kashyap, aged about 51 years, R/o Vyas Nagar, PO Bhaiso, PS and Tahsil Pamgarh, District Janjgir-Champa(CG).
2. Janpad Panchayat Pamgarh, through its Chief Executive Officer, Janpad Panchayat, Pamgarh, District Janjgir-Champa (CG).
3. State of Chhattisgarh, through the Collector, District Janjgir-Champa (CG).
---- **Respondents**

For Petitioner : Mr. Rajeev Shrivastava, Advocate
For State/Respondents: Mr. Aditya Sharma, Panel Lawyer and Mr. Ravindra Agrawal, Advocate

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

18/09/2017

(1) The suit filed by the plaintiff/respondent No.1 herein along with application under Order 39 Rule 1 & 2 of CPC against the defendants for declaration and permanent injunction before the trial Court. The trial Court by order dated 29.04.2014 has allowed the application and granted temporary injunction in favour of the plaintiff/respondent No.1. Against the order of trial Court, the present petitioner/defendant No.3 preferred Miscellaneous Civil Appeal under Section 43 Rule 1(u) 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 16.07.2014.

(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/defendant No.3 herein.

(3) Learned counsel appearing for the petitioner/defendant No.3 would submit that the impugned order dated 16.07.2014 passed by the First Appellate Court and affirmed the order of trial Court is perverse, which is liable to be set-aside.

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

(5) The trial Court has clearly held that the plaintiff has prima-facie case and balance of convenience and if temporary injunction would not be granted in favour of him, he is likely to suffer irreparable loss, which is affirmed by the First 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 first 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 expeditiously preferably within a period of six months from the date of receipt of certified copy of this order.

(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/-