

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 698 of 2016

- Praveen Kumar Agrawal, S/o Jogiram Agrawal, Aged About 35 Years Occupation Business R/o Ward No 7, Nagar Panchayat Rajpur Police Station & Tahsil Rajpur, Distirct Balrampur Chhattisgarh

---- Petitioner

Versus

1. Smt. Kamla Devi W/o Subhash Agrawal, Aged About 50 Years Caste Agrawal Occupation Business, R/o Village Budhabagicha, Tahisl Rajpur Distirct Balrampur Chhattisgarh
2. Vinod Agrawal, S/o Jogiram Agrawal, Aged About 38 Years Occupation Business R/o Ward No 7, Nagar Panchayat Rajpur Police Station & Tahsil Rajpur Distirct Balrampur Chhattisgarh
3. State Of Chhattisgarh Through Collector, Balrampur, Distirct Balrampur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Shakti Raj Sinha, Advocate
For Respondent No.1 & 2	:	Shri Manoj Paranjpe, Advocate
For Respondent/State	:	Shri Sangharsh Pandey, Dy. Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

21/03/2017

1. Heard.
2. This petition is arising out of the order dated 25/10/2016, by which the Court below has passed the order restraining the defendant from operating the filter plant till receipt of the demarcation report.
3. Though, learned counsel for the parties make their rival submissions and while learned counsel for the petitioner submits that the Court below, not in a position to record *prima facie* satisfaction regarding the possession, balance of convenience and irreparable loss and injury could not issue kind of prohibitory order of injunction, learned counsel for the respondents submits that the petitioner had submitted undertaking that he would not operate the plant on the land of the plaintiff, I find that interim order passed by this Court on 16/11/2016 has been continued till date and almost four months have elapsed.

4. The matter arises out of injunction matter. The Court below has not yet decided the injunction application, but it deferred decision till receipt of the demarcation report.
5. In view of the above, in my opinion, at this stage this petition is disposed off with a direction to the trial Court to decide the application for injunction within a period of 45 days from the date of receipt of copy of this order. It is made clear that whether or not the demarcation report is submitted before this Court, the injunction application shall be decided by the trial Court on the basis of pleadings, affidavits and documents available on record. Till the application is decided, status-quo as it exists shall be maintained by both the Courts below.
6. It is also made clear that this Court has not expressed any opinion on the merits of the plaintiff's application for grant of temporary injunction and the trial Court shall decide the same, in accordance with law on its own consideration and merits.

Sd/-
(Manindra Mohan Shrivastava)
Judge