

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.786 of 2016**

Smt. Dayabati, aged about 75 years, W/o late Rattiram Naag,
R/o Upparpara, Antagarh, Thana and Tahsil Antagarh, District
U.B. Kanker.

---- Petitioner**Versus**

1. State of Chhattisgarh, through its Collector, District U.B. Kanker.
2. Sub Divisional Officer (R), Antagarh, District U.B. Kanker (CG).
3. Tahsildar, Antagarh, District U.B. Kanker (CG).
4. Sarpanch, Gram Panchayat Himoda, Tahsil Antagarh, District U.B. Kanker (CG).
5. Secretary, Gram Panchayat, Himoda, Tahsil Antagarh, District U.B. Kanker (CG).

--- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate
For Respondents/State	:	Shri Dhiraj Wankhede, Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/01/2017****(1)** Heard.

(2) In a suit filed by the plaintiff/petitioner, the trial Court has rejected an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure for temporary injunction against which, the plaintiff/petitioner has preferred Misc. Appeal No.15-A/2016, which has also been dismissed by the trial Court holding that the

plaintiff/petitioner has neither prima facie case nor balance of convenience against which, this writ petition under Article 227 of the Constitution of India has been filed.

(3) Learned counsel appearing for the plaintiff/petitioner submits that the trial Court has committed jurisdictional error in rejecting the application under Order 39 Rule 1 & 2 of the Code of Civil Procedure, which is perverse and contrary to the record.

(4) After hearing learned counsel for the parties, I am satisfied that the trial Court has exercised jurisdiction properly by rejecting the application filed by the plaintiff/petitioner.

(5) Applying its earlier 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 Agrawal**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 :(1) the error is manifest and apparent on

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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 occasion.

(6) Having heard learned counsel for the parties and having perused the impugned order, this Court does not find any such illegality or perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.

(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/-