

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal No. 39 of 2016**

Ramratan Kaushik S/o Late Shivdulare Kaushik, Aged About 54 Years
Occupation Agriculturist, R/o Village Beltara, Police Station Ratanpur,
Tahsil Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh).

---- Appellant

Versus

1. Ashwani Kumar Kashyap S/o Shivsahay Kashyap, Aged About 45 Years Occupation Agriculturist, R/o Village Gadwat, Police Station Ratanpur, Tahsil Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh).
2. Dinesh Kumar Kaushik, S/o Late B. R. Kaushik, Aged About 46 Years R/o Rajendra Nagar Bilaspur, Police Station Civil Lines Bilaspur, Tahsil Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh).
3. Ramesh Kumar Kaushik, S/o Late B. R. Kaushik, Aged About 60 Years Occupation Agriculturist, R/o Rajendra Nagar Bilaspur, Police Station Civil Lines Bilaspur, Tahsil Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh).
4. State Of Chhattisgarh Through Collector Bilaspur, Collectorate Compound Bilaspur, Police Station Civil Lines Bilaspur, Tahsil Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh).... (Defendants).

---- Respondents

For Appellant	Shri Ratnesh Kumar Agrawal, Advocate.
For Respondent No.1.	Shri Animesh Kumar Verma, Advocate.
For Respondent No.2 & 3	Shri Purnendra Khichariya, Advocate.
For Respondent/State	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P.Sam Koshy**Order On Board**

11/01/2017

1. The present petition under Order 43 Rule 1 CPC has been preferred against the order dated 13.05.2016 passed by the 3rd Additional District Judge, Bilaspur. Vide the said impugned order, the trial court while considering Civil Suit No.4-A/2016 instituted at the behest of the appellant-plaintiff seeking for a relief of specific performance had in an

application under Order 39 Rule 1 & 2 CPC has ordered for maintaining status quo with respect to disputed property until further orders. It was also observed that the defendants shall not in any manner create any hurdle. It was also directed that parties to the dispute shall not in any manner create any third party right over the suit property by transfer or sale.

2. Counsel for the appellant submits that the order in the present case granting status quo is not proper, legal and justified. According to him, once when there is categorical proof produced before the court below by way of pleading by the plaintiff which has been supported in the reply of the respondents No.2 & 3, the other defendants, the court below ought to have granted injunction in favour of the appellant-plaintiff so far as possession of the property is concerned. He further submits that pleadings before the trial court in the application under Order 39 Rule 1 & 2 CPC itself it has been specifically held that after agreement entered into between the parties and on receipt of sale consideration, the parties had given possession of the said property to the appellant-plaintiff and as such he is in possession of the property and after the impugned order has been passed, the defendants are trying to dispossess the plaintiff from the said property.
3. Counsel for the respondent No.1 however opposes the appeal and submits that it is a case where the application under Order 39 Rule 1 & 2 CPC has already been allowed by the trial court inasmuch as there is already an order for maintaining status quo. It has also been ordered that the suit property until further orders should not be transferred,

alienated or sold to any third party. This itself shows that the parties to the dispute have to maintain status quo in respect of the suit property. He further submits that rest of the avements which have been raised by the plaintiff in the present petition are the matters which could be thrashed out by the evidence recorded so far as illegality and veracity of the agreement to sale and consideration that followed thereafter.

4. In the light of pleading so made by the parties and also in the light of the categoric denial by the respondent No.1 of not having any transaction between him and the plaintiff and also the disputed facts so far as possession and also the agreement is concerned, this court is of the opinion that the court below has not committed any error of law or any infirmity in reaching to the conclusion that the parties to the dispute in between shall maintain status quo and they shall not in any manner alienate, transfer or sale the property.
5. Thus, in the opinion of this court, no strong case has been made out for interfering with the interim order under challenge. Accordingly, the appeal being bereft of merit is liable to be and is hereby dismissed.
6. Needless to mention, it is expected that the court below shall try to decide the matter as expeditiously as possible.

Sd/-
(P.Sam Koshy)
Judge