

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 42 of 2016**

- Tanang Ram S/o Bandhan Ram Aged About 46 Years Caste - Binjhiya R/o Village - Kandrai P.S. Jainagar Tehsil And District - Surajpur Chhattisgarh.

---- Petitioner**Versus**

1. Atwaru S/o Late Andha Aged About 56 Years Cast - Chamar
2. Phulbasiya W/o Late Andha Aged About 70 Years Cast - Chamar

Both are R/o Village - Kandrai P.S. Jainagar Tehsil And District - Surajpur Chhattisgarh

---- Respondents

For Petitioner	:	Shri AN Pandey, Advocate
For Respondents	:	Shri DN Prajapati, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****28/02/2018**

1. Challenge in this petition is the order dated 21.12.2015 in Miscellaneous Civil Appeal No.12/2015 by the District Judge, Surajpur, whereby the order passed by the Civil Judge, Class-I allowing the application filed under Order 39 Rule 1 & 2 CPC, has been affirmed.
2. Perusal of the order would show that the plaintiff/respondent herein had filed a suit for permanent injunction and declaration in respect of the suit land that they are in possession of the suit land and that they may be declared to be the absolute owner in such suit, an application under Order 39 Rule 1 & 2 CPC was preferred, which was allowed. The order would show that the trial Court and the appellate Court have recorded that the plaintiffs are in

possession of the suit land. Prima facie the plaintiffs were found in possession of the suit land and the source of ownership is also been held in favour of the respondent/plaintiff. Consequently, taking into consideration the balance of convenience the injunction was granted in favour of the respondent/plaintiff.

3. After going through the order and the document, I do not find that the finding of fact arrived at by both the Courts below is perverse, which requires interference in exercise of powers under Article 227 of the Constitution of India. In view of this petition being devoid of merits is dismissed. However, the trial Court is requested to expedite the trial on merits.

Sd/-

Goutam Bhaduri
Judge

Ashu