

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Arising out of order dated 13.11.2013 in M.C.A. No. 15 of 2013 passed by the Sixth
Additional District Judge, Bilaspur, Chhattisgarh)

Writ Petition (227) No. 168 of 2014

- Chedilal Kashyap S/o Late Shri Gajadhar Kashyap, 60 yrs., R/o Kashyap Complex, Beside Naresh Bazar, Telipara, Bilaspur, Post – G.P.O., P.S. - City Kotwali, Civil & Revenue District Bilaspur (C.G.)

---- Petitioner**Versus**

1. Om Prakash S/o Shri Ramfer Rajak, 39 years
2. Smt. Geeta W/o Shri Om Prakash Rajak, 33 yrs.

Both R/o Behind Tuteja Show Room, Telipara, Bilaspur, Post – G.P.O., P.S. - City Kotwali, Civil & Revenue District Bilaspur (C.G.)

3. Smt. Kamla Sahu W/o Shri Laxmi Prasad Sahu, 55 yrs., R/o Near Dr. Dubey Clinic, Telipara, Post – G.P.O., P.S. - City Kotwali, Bilaspur, Tahsil Civil & Revenue District Bilaspur (C.G.)
4. State of C.G. Through – Collector, Post – G.P.O., P.S. Civil Lines, Bilaspur, Civil & Revenue District Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Shri Keshav Dewangan, Advocate
For Respondents 1 to 3	:	None
For State/Respondent No.4 :		Shri R.K. Gupta, Deputy Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Order on Board****09/03/2018**

1. Heard the learned counsel for the Petitioner and the learned Deputy Advocate General for the State.
2. This writ petition is filed invoking under Article 227 of the Constitution. It was instituted on 04.03.2014.

3. The Petitioner is defendant No. 2 in a suit instituted for declaration of easementary right and for permanent prohibitory injunction on the ground that the two plaintiffs had purchased certain land from defendant No. 1 which has a way and such right of way was being used by them. The suit is laid on the allegation that defendant No. 2 is not permitting the plaintiffs to use that piece of land as path way and therefore declaration of easementary right was sought for.
4. An application for temporary injunction filed by the plaintiffs was dismissed by the Trial Court. The Appellate Court allowed the plaintiffs' appeal and granted an injunction. This is under challenge in this writ petition. On 07.03.2014 while admitting the writ petition to file, the following interim order was issued on I.A. No. 1:-

“Taking into consideration the submission made by learned counsel for the petitioner that despite specific stand taken by the plaintiffs in the criminal case against Kamla Sahu that there is no *nistari* road, the learned Lower Appellate Court has granted injunction in favour of plaintiffs, it is ordered that till the next date of hearing, statusquo in respect of the disputed property as exist today, shall be maintained.”

5. The private respondents and the official respondent have placed pleadings on record.
6. The trial of the suit need not further drag on merely on account of the pendency of this writ petition. The state of affairs for the last more than four years, i.e., from 07.03.2014 until now, stands governed by the aforequoted interim order. At this distance of time all that is required, to secure justice through this application under Article 227 of the Constitution, is to make absolute the said interim order, to run till the final disposal of the suit and to

request the Trial Court to expedite the final disposal of the suit.

7. In the result, the interim dated 07.03.2014 quoted above is made absolute and that order will govern parties till the final disposal of the suit from which this writ petition arises. The Trial Court is requested to expedite the trial and final hearing of that suit and conclude it at the earliest.

8. The writ petition is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice