

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 13 of 2018**

1. Parmindar Singh S/o Dilip Sing Aged About 35 Years R/o Near Gurudwara, Santrabadi, Durg Tahsil & District Durg, Chhattisgarh.
2. Harmeet Sing S/o Darshan Sing Aged About 37 Years R/o Katulboard Durg Tahsil & District Durg, District : Durg, Chhattisgarh
--- **Appellants**

Versus

1. Dr. Sanjeev Kashyap S/o Moolchand Kashyap Aged About 45 Years R/o Kasarideeh Durg Tahsil & District Durg, Chhattisgarh.
2. State of Chhattisgarh. through the Collector District Durg, Chhattisgarh.
--- **Respondents**

For the applicant	:	Mr. Vipin Tiwari, Advocate.
For Respondent No.1	:	Mr. Avinash Chand Sahu, Advocate
For the State	:	Mr. R.R. Jaiswal, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****27.08.2018**

1. The instant appeal is against the order dated 14.11.2017 passed in Civil Suit No.16A/2016 whereby the learned court of V Additional District Judge, Durg has allowed the application filed by respondent/plaintiff under Order 39 Rule 1 & 2 of the Code of Civil Procedure and has restrained the petitioner defendant herein to interfere in the possession of the land bearing Khasra No. 294/118 P.H. No. 17 situated at village Sikola District Durg.
2. Learned counsel for the appellant submits that the suit was filed by the respondent/plaintiff wherein prayer was made for declaration, permanent injunction and possession of land

bearing Kh.No.298/118.

3. Learned counsel for the appellants submits that the application for temporary injunction was confined to the land bearing No.294/2018 which would be evident from the application whereas the court below while hearing the application has granted the injunction order in respect of the land of the appellant/defendant which is Kh.No.294/2, therefore, there is apparent mistake on the face of record.
4. Learned counsel for the respondent No. 1 opposes the prayer.
5. Perused the order of the court below dated 14.11.2017. The record would reveal that the plaintiff was claiming his right on the basis of a sale deed dated 26.02.2003 wherein the land was shown as part of land bearing Kh.No.294/2 admeasuring 0.084 hectares. Subsequently after purchase, the land was mutated in the revenue records and the same land being part of Khasra No.294/2, Kh.No.294/118 was recorded. It was stated that the allegations were made that the defendants/appellants herein tried to disturb the possession of the plaintiff as such the injunction application was filed. The Court referred the demarcation report dated 28.02.2015 which records the fact that Kh.No.294/2018 is part and parcel of Kh.No.294/2. The demarcation report also engrafts the fact that the boundaries of the said subject land tallies with the land which is shown in the sale deed. The names of appellants/defendants were recorded to have purchased the part of land bearing Kh.No.294/2. The demarcation report which is placed on record categorically shows that on spot inspection, the land which was said to

have been purchased by the plaintiff, the boundaries thereof are exactly tallied with the description made in the sale deed. It appears that after evaluating records prima facie it shows that the land bearing Khasra No.294/2 was a big chunk of land and different plots were carved out and were sold to different persons. Therefore, the argument which is being made by the learned counsel that the prayer was confined to Kh.No.294/118 but injunction has been granted in respect of Kh.No.294/2 is completely misconceived or unacceptable.

6. It is trite law that the boundaries will prevail over measurement in case of dispute. The demarcation report shows that the boundaries were tallied with the sale deed and it was found that in some part of land, the defendant tried to intervene which was restrained by way of injunction in the impugned order. In view of this, after careful examination of the documents, I do not find any material irregularity committed by the court below warranting interference by this Court.
7. Accordingly, the appeal has no merit and is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**