

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(227) No. 133 of 2018**

1. Ram Sai S/o Shri Kenwata Ram Aged About 60 Years Caste Bargaah,
2. Dilram S/o Shri Baudha Aged About 66 Years Caste Kenwat,
3. Chamru Das S/o Shri Dashrath Das Aged About 50 Years Caste Panika,
4. Smt. Nankunwar Wd/o Late Shri Sukhdev Aged About 55 Years,
5. Bechan Das S/o Shri Dashru Aged About 60 Years Caste Panika ,

All are Agriculturist And Labourer , R/o Village Kanthi Post Office - Karaji Police Station Darima , Tahsil Ambikapur District Surguja Chhattisgarh.

---- **Petitioners**

Versus

Prem Sai S/o Shri Baliram , Aged About 50 Years Caste - Kolta , Occupation - Annual Agricultural Labour (Barahil) Permanent Resident Of Village Baneya , Police Station And Tahsil - Sitapur District Surguja Chhattisgarh Presently R/o At Village Kanthi , Post Office Karaji Police Station Darima Tahsil Ambikapur District Surguja Chhattisgarh.

-- **Respondent**

For petitioners – Shri A.N. Bhakta, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order**

15/02/2018

Heard.

1. Instant petition is against the order dated 27/09/2017 passed by the 5th Additional District Judge (Ambikapur) Surguja in Misc. Civil Appeal No.20/2017 whereby application under Order 39 Rule 1 and 2 of CPC was rejected by the Civil Judge, Class-II dated 24/06/2017 was affirmed.
2. Learned counsel for the petitioners would submit that the petitioners are in possession of the suit land and the reasons have been stated are sustainable under the law. It is stated for the reasons of rejection petitioners shall suffer irreparable loss and the ground for which it

is been rejected purports that the plaintiffs/petitioners have not stated particular in respect of the other land in their possession, therefore that ground cannot be sustained.

3. Perused the plaint as also orders of two respective courts. Suit is filed for permanent injunction wherein both the parties are claiming their right over a land. Copy of the demarcation report which is placed do not conclusively decide about possession and ownership, primarily it shows that there has been some dispute while demarcation was carried out. In view of the fact that since suit is only for declaration and petitioners presume themselves to be in the possession and no counter claim has been filed, therefore at this stage entering into issue of the possession would be totally redundant for the decision of this case. Taking into fact since possession can only be established by adducing evidence, it is directed that the parties shall maintain status quo in respect of the land. The learned trial court shall be obliged to decide the civil suit within a further period of one year from the date of receipt of the order on merit including the finding of possession on the basis of evidence adduced by the respective parties.

4. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE