

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP(227) No. 159 of 2018**

Shyam Kunwar @ Samkunwar, W/o. Dhanwaram Sahu, Aged About 54 Years, R/o. Village Pauwara, P.S. Utai, Tahsil & District- Durg, Chhattisgarh.

**---- Petitioner**

**Versus**

1. Kartik Ram, S/o. Tesuram Sahu, Aged About 68 Years, R/o. Village Kodiya, P.H. No. 28, Revenue Circle Anda, Tahsil & District- Durg, Chhattisgarh.
2. State Of Chhattisgarh, Through The Collector Durg, District- Durg, Chhattisgarh.

**---- Respondents**

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| For Petitioner | : | Mr. Praveen K. Dhurandhar, Advocate |
| For State      | : | Mrs. Astha Shukla, Panel Lawyer     |

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**21.02.2018**

Heard

1. Learned counsel for the petitioner submits that a suit for declaration and permanent injunction was preferred by the respondent/plaintiff Kartik Ram that he is the sole and exclusive owner of the property left by Tesuram wherein an application under Order 39 Rule 1 & 2 of C.P.C. was preferred, which was initially rejected by the Civil Judge Class-II, however, having been taken up in appeal, the order of the rejection of interim prayer was reversed and injunction was granted in favour of the plaintiff. He further submits that the petitioner/defendant claims to be the daughter of Tesuram and if the injunction is given effect to then in such case the right of the petitioner who is daughter shall also be affected and the stay cannot be granted in respect of the entire property which includes the share of the petitioner.

2. Perusal of the plaint would show that the suit is filed for declaration and injunction that the plaintiff/ respondent is sole and exclusive owner of the property in question. The documents which were considered by appellate Court would show that revenue records prima facie shows the name of the respondent/ plaintiff as sole and exclusive owner of the suit properties and is in exclusive possession of the same. Therefore for adjudicating the interim application the presumption of correctness of revenue records would follow unless proved otherwise and rebutted in evidence during trial. The relation of petitioner as real daughter is also disputed.
3. Further if at this stage submission of petitioner is accepted against the revenue documents, it would amount to give a finding with respect to the right of the defendant/ petitioner. The trial Court may at the end of hearing after evidence of the parties may come to a definite finding of ownership of the properties and the relation interse between the parties. Primarily the documents shows that the prima facie case, balance of convenience and irreparable injury all exist in favour of grant of interim injunction. On perusal of the order dated 13.12.2017, I do not find any reason that any jurisdictional error has been committed so as to interfere in such order, as the order only touches upon the temporary injunction not to interfere in the suit property.
4. In view of the above, the petition has no merit and accordingly is dismissed at the admission stage itself.

Sd/-  
**(Goutam Bhaduri)**  
Judge