

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 182 of 2018**

1. Smt. Khatun Bee W/o Late Badruddin Aged About 95 Years
(Defendant No. 1)
2. Najeer Ahmad S/o Late Badruddin Aged About 65 Years (Defendant
No. 2)
3. Nijamuddin S/o Late Badruddin Aged About 68 Years (Defendant
No. 3),

All the petitioners are R/o Village Mangala , Bilaspur Tahsil And District Bilaspur Chhattisgarh.

---- Petitioners

Versus

1. Dinesh Yadav S/o Manaklal Yadav Aged About 50 Years R/o Gondpara ,
Bilaspur District Bilaspur Chhattisgarh. (Plaintiff No. 1)
2. State of Chhattisgarh Through Collector Bilaspur District Bilaspur
Chhattisgarh. (Defendant No. 4)

---- Respondents

For Petitioners	:	Shri Surfraj Khan, Advocate
For Respondent-State	:	Shri S.K. Mishra, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****01/03/2018**

1. The instant petition is against the order dated 19.01.2018 wherein the appeal against the rejection of an application filed under Order 39 Rule 1 & 2 CPC was reversed. The trial Court by its order dated 02.02.2017 passed in Civil Suit No.124-A/2016 has dismissed the application filed by respondent No.1 Dinesy Yadav under Order 39 Rule 1 & 2 CPC, wherein the prayer was made that the defendants be restrained to interfere with possession and the peaceful enjoyment of the property in question.

2. Learned counsel for the petitioner would submit that this is the second round of litigation. Admittedly, initially the suit was filed for declaration by Inaytulla Khan, which traveled up to High Court and the second round of litigation has been preferred through Dinesh Yadav and the property is a government land and the petitioners are in possession since 1926. He would further submit that the petitioners are in possession, therefore, order of the appellate Court whereby the respondents/plaintiffs has been given favour that he will not be disturbed from the enjoyment of the property as itself cannot be enforced.
3. Perusal of bot the orders of the Court below would show that the appellate Court has directed that the defendants/petitioners have been restrained that till the civil suit is decided on merits they are restrained to interfere into the peaceful possession of the suit property. Considering the fact that the parties are adversely claiming possession to each other. Be that as it may, it would not be possible for this Court to go into the merits of this case and give a finding on the possession of the parties and ultimately it is to be established by the parties before the Court below by adducing evidence. Consequently, it is directed that bot the parties shall maintain status-quo in respect of the suit property till the final disposal of suit and the trial Court is requested to expedite the trial.
4. With such observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri

Judge