

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 569 of 2018

Santosh Sahu S/o Late Shri Uderam Sahu Aged About 50 Years
R/o Village Jenjara, Tahsil Rajim, District Gariyaband Chhattisgarh.

---- Petitioner

Versus

1. Smt. Anoopee Bai Sahu W/o Shri Asharam Sahu Aged About 70 Years R/o Village - Beltukari, Tahsil Rajim District Gariyaband Chhattisgarh.
2. Smt. Ganga Bai Sahu W/o Shri Pusauram Sahu Aged About 55 Years R/o Village - Kumhi, Tahasil - Rajim District Gariyaband Chhattisgarh.
3. State Of Chhattisgarh Through Collector, Gariyaband District Gariyaband Chhattisgarh.

---- Respondents

For petitioner - Shri J.N. Nande, Advocate.
For State- Smt. Astha Shukla, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/07/2018

Heard.

1. Instant petition is against the order dated 3/05/2017 passed in Misc. Civil Appeal No.1/2017 whereby petitioner/defendant have been restrained under Order 39 Rule 1 and 2 of CPC to interfere into peaceful possession in respect of the suit property.
2. Learned counsel for the petitioner submits that the petitioner is the co-owner and he is in possession which has been held by both the court below.
3. Perusal of the order of both the court below would show that revenue records shows name of the plaintiffs/respondents to be in possession and the defendant was claiming his right in respect of the 'Will' dated 29/03/2016. It is also been recorded by the court below that the petitioner was unable to produce any document to prove his possession

over the land and thereby prima facie it was found that the plaintiffs are in possession of the suit property. It is further observed that defendant/petitioner failed to produce any document of partition whereby to show that he has acquired any right over the property. Considering the finding of both the court below i.e. of the Civil Judge Class-II as also the Additional District Judge in Misc. Appeal finding of fact cannot be gone into while exercising jurisdiction under Article 227 of the Constitution of India. Petition has no merit and it is dismissed accordingly.

Sd/-

(Goutam Bhaduri)

JUDGE