

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (227) No. 749 of 2018**

Dinesh Agrawal, S/o Shri Baal Kishan Agrawal, aged about 41 years, Caste– Agrawal, Occupation – Buisness, R/o Barejpara, Ambikapur, Post and Police Station and Tahsil Ambikapur, District Surguja (C.G.).....
[Defendant No. 4] **---- Petitioner**

Versus

1. Smt. Rita Ghoshal, W/o Samarnath Ghoshal, aged about 56 years, Occupation – Health Officer, R/o Village Subhash Nagar, Tahsil Ambikapur, District Surguja (C.G.).....[Plaintiff]
2. Ranjeet Mandal, S/o Late Shri Baburam Mandal, aged about 47 years, Occupation – Agriculturist, R/o Village Subhash Nagar, Tahsil Ambikapur, District Surguja (C.G.).....[Defendant No. 1]
3. Rajendra Prasad Sahu, S/o Late Shri Ben Prasad Sahu, aged about 47 years, R/o Hospital Road, Ambikapur, District Surguja (C.G.).....[Defendant No. 2]
4. State of Chhattisgarh, through Collector, Surguja, Ambikapur, District Surguja (C.G.)

---- Respondents

For Petitioner	:	Mr. A. K. Prasad, Advocate.
For Respondent No. 4/ State	:	Mr. Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****30/08/18**

1. Learned counsel for the petitioner submits that the application filed by the petitioner / defendant No. 4 under Section 151 of the C.P.C. for vacating the stay has been rejected by the trial Court which was rather an application under Order 39 Rule 4 of C.P.C. for modification / vacating interim order. Therefore, he may be permitted to file a fresh application under Order 39 Rule 4 of the C.P.C., in view of the decision rendered by this Court in the case of **Ramdin v. Fulamati and Others**¹.

2. I have heard learned counsel for the petitioner.

¹ I.L.R. 2018 Chhattisgarh 316

3. The prayer is fair and reasonable.
4. Be that as it may, the petitioner is at liberty to file an application under Order 39 Rule 4 of C.P.C. for vacating the stay / modification of the interim injunction granted on 19.12.2013. If such an application is filed by the petitioner, the trial Court will decide the said application without being prejudice by the impugned order dated 16.05.2018.
5. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge