

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 803 of 2018**

1. Konelious Tirkey S/o Marshal Tirkey Aged About 63 Years Caste Uroan, Resident Of Village Jokbahla, Tehsil Kunkuri, District Jashpur Chhattisgarh At Present Resident Of 43rd Abhaygar Scheme Jodhpur, Rajasthan., District: Jodhpur, Rajasthan
2. Honourous Tirkey S/o Marshal Rati Aged About 58 Years Caste Uroan, Resident Of Jokbahla, Tehsil Kunkuri, District Jashpur Chhattisgarh At Present Resident Of Narmada Nagar, Bilhari, Jabalpur Madhya Pradesh. (Plaintiffs), District : Jabalpur, Madhya Pradesh

---- Petitioners**Versus**

1. Smt Juliya W/o Siril Bek Aged About 84 Years Caste Uroan, Resident Of Village Nawapara, Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
2. Banbeer Kerkatta S/o Donatus Kerkatta, Aged About 45 Years Caste Uroan, Resident Of Kaliya, Tehsil Bagicha, District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh
3. Simon Khakha S/o Devnisha Khakha Aged About 77 Years Caste Uroan, Resident Of Village Jokbahla, Tehsil Kunkuri, District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh
4. State Of Chhattisgarh Through Collector, District Jashpur Chhattisgarh., District : Jashpur, Chhattisgarh
5. Nobart Tirkey S/o Tetangu Rati, Aged About 63 Years Caste Uroan, Resident Of Jokbahla, Tehsil Kunkuri, District Jashpur Chhattisgarh. (Plaintiff No. 3), District : Jashpur, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. A. K. Prasad, Advocate.
For Respondent No. 4 / State	:	Mr. Avinash Singh, PL.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****19/09/18**

1. In a suit filed by the plaintiffs / petitioners herein for declaration of title, permanent injunction and declaration of the orders dated 23.11.1997 and 28.02.1984 as null and void, the application filed under Order 39 Rule 1 and 2 of CPC has been rejected by the trial Court finding no prima-facie

case, balance of convenience and irreparable loss to the plaintiffs which has been affirmed by the miscellaneous Appellate court against which this writ petition has been filed.

2. Learned counsel for the petitioners submits that the impugned order is unsustainable and bad in law and is liable to be set aside.

3. I have heard learned counsel for the petitioner at length.

4. After hearing the counsel for the petitioner and perusal of the record, it cannot be held that the finding recorded by the two Courts below finding no prima-facie case in favour of the plaintiffs is perverse and contrary to record. The discretion exercised by the two Courts below cannot be held to be exercised arbitrarily, perversely or capriciously.

5. Accordingly, the writ petition deserves to be and is hereby dismissed. However, as the suit is pending since 01.12.2016, the trial Court is directed to conclude the trial expeditiously within a period of four months from the date of receipt of copy of the order.

SD/-

(Sanjay K. Agrawal)
Judge