

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WP(227) No. 846 of 2018

1. Dwarika Prasad Sahu S/o Purooram Sahu Aged About 62 Years R/o Nearby Street of Sindhi School, Zorapara, Raipur Tahsil & District Raipur Chhattisgarh.
2. Gyan Chand Sahu S/o Dwarika Prasad Sahu Aged About 30 Years R/o Nearby Street of Sindhi School, Zorapara, Raipur Tahsil & District Raipur Chhattisgarh.
3. Smt. Leelavati Sahu W/o Dwarika Prasad Sahu Aged About 59 Years R/o Nearby Street of Sindhi School, Zorapara, Raipur Tahsil & District Raipur Chhattisgarh.

--- Petitioners

Versus

1. Babulal Sahu S/o Puroo Ram Sahu Aged About 59 Years R/o Village- Chandkhuri, Tahsil - Aarang, District Raipur Chhattisgarh At Present R/o Near New Sabji Market , Near Almira Factory, Kushalpur, Raipur Tahsil & District Raipur Chhattisgarh.
2. State of Chhattisgarh, Through Collector, Raipur District Raipur Chhattisgarh.

--- Respondents

03.10.2018	Mr. Manoj Paranjpe, counsel for the petitioners. The plaintiff/respondent herein filed a civil suit for declaration wherein an application for grant of injunction under Order 39 Rule 1 & 2 of CPC has also been filed. The defendants/petitioners filed their written statement denying the averments made in the plaint and in application for grant of injunction. The learned trial Court vide order dated 07.12.2007 has rejected the application for grant of injunction. Being aggrieved by the said order dated 07.12.2017, the plaintiff/ defendant preferred appeal under Order 43 Rule 1(r) before the appellate Court and the learned appellate Court has allowed the application for grant of injunction. The instant petition is by one of the defendants against the grant of injunction by the appellate Court in allowing the application under Order 39 Rule 1 & 2 of CPC. A perusal of the order would show that the appellate Court has allowed the injunction in favour of the plaintiff by holding that	

the plaintiff has produced the document to show that legally he is owner of the land and is in possession and enjoyment thereof whereas the defendants have failed to produce any such document and the appellate Court has further held that the status of the defendants being the trespassers, their right cannot be protected. It is further observed that the appellants/defendants are trying to dispossess the plaintiff to interfere in peaceful possession, therefore, it was directed that the defendants shall not interfere in the suit property either by themselves or by their agent or any person claiming the possession under them.

This Court after going through the impugned order and documents filed along-with the petition is not inclined to interfere with the finding and order dated 03.08.2018 passed by the appellate Court as the rights of the parties are to be adjudicated after the evidence is led before the Court on merits.

Under these circumstances, after examination of record it cannot be said that the order is perverse or the learned appellate court has exceeded his jurisdiction or has acted in arbitrary manner which warrants interference by this Court in exercise of power under Article 227 of the Constitution of India.

The petition has no merit and is dismissed. However, the trial Court is requested to expedite the trial.

It is made clear that this Court has not expressed any opinion on the merits of the case.

**Sd/-
GOUTAM BHADURI
JUDGE**

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