

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 968 of 2018**

Sukhchain Patel, S/o Paras Ram, aged about 62 years, R/o Talapara, Bilaspur, Tahsil and District Bilaspur, C.G.

---- **Petitioner**

Versus

1. Thagiya Bai, W/o Late Horilal R/o Village Lofandi, Gram Panchayat Mangla, Tahsil and District Bilaspur (C.G.)
2. Md. Javed S/o Abdul Karim Khan, R/o Talapara, Bilaspur, Tahsil and District Bilaspur (C.G.)
3. State of Chhattisgrh, through Collector, District Bilaspur (C.G.)

---- **Respondents**

For Petitioner	:	Ms. Renu Kochar, Advocate.
For Respondents	:	None.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/11/18

1. In a suit filed by the plaintiff/petitioner herein he also filed an application for grant of temporary injunction that was rejected by the trial Court and upheld by the miscellaneous appellate Court against which this writ petition has been preferred.

2. Learned counsel appearing for the petitioner submits that both the Courts below are absolutely unjustified in rejecting the application for temporary injunction as the plaintiff has *prima-facie* case, balance of convenience lies in his favour and if temporary injunction is not granted he will suffer irreparable loss and injury which cannot be compensated in terms of money.

3. I have heard learned counsel for the petitioner and perused the

records.

4. The plaintiff filed a suit for declaration of title that he is the title holder of the suit land and is in possession of the suit land in which an application for temporary injunction was filed pleading that *prima-facie* case lies in his favour. The trial Court has clearly held that the suit land bearing Khasra No. 171 is an Abadi land and no documents are filed showing that the land is recorded in the name of the plaintiff and as such, he has no *prima-facie* case and also no balance of convenience lies in his favour and further finding that irreparable loss will not be suffered if temporary injunction is not granted to the plaintiff has been upheld by the miscellaneous appellate Court. The concurrent finding recorded by both the Courts below holding that no *prima-facie* case and balance of convenience lies in favour of plaintiff is a finding of fact based on record in which I do not find any perversity or illegality warranting interference under Article 227 of the Constitution.

5. Accordingly, the writ petition is rejected with no cost(s). However, the trial Court shall decide the suit on its own merits without being prejudice by any of the orders passed by the two Courts below.

6. A copy of this order be sent to the trial Court directly as well as through the concerned District Judge for needful and compliance.

SD/-

(Sanjay K. Agrawal)
Judge