

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WP227 No. 505 of 2019**

1. Devendra Kumar S/o Purruram Aged About 52 Years R/o Prince Colony, Durgapara, Raipur, Tahsil And District Raipur, Chhattisgarh
2. Surendra Kumar S/o Purruram Aged About 48 Years R/o Chhattisgarh Nagar, Ring Road, No. 1, C/o Vishala Tiles, Raipur, District Raipur, Chhattisgarh.
3. Shashi Bai D/o Purruram Aged About 54 Years R/o Dharam Nagar, Pachpedi Naka, Raipur, Tahsil And District Raipur Chhattisgarh

---- Petitioner**Versus**

1. Salik Ram S/o Pyarilal Aged About 38 Years R/o Village Arkar, Post Arkar, Tahsil Gurur, District Balod, Chhattisgarh
2. State Of Chhattisgarh Through Collector, Balod District Balod, Chhattisgarh

---- Respondent

For Petitioners	Mr. Manoj Paranjpe, Advocate
For Respondent /State	Mr. Anand Bajpayee, Panel Lawyer

Order On Board By**Hon'ble Mr. Justice Prashant Kumar Mishra****26/6/2019**

1. Heard.
2. Both the Courts below have dismissed the petitioners/plaintiffs' application for grant of temporary injunction under Order 39 Rule 1 & 2 of CPC.
3. Both the Courts below have concurrently found that the petitioners/plaintiffs do not have a good *prima facie* case or

balance of convenience in their favour and are not going to suffer irreparable loss if the temporary injunction is not allowed.

4. While the petitioners are claiming joint ownership over the property along with Tijjiya Bai, the other party is claiming right over the property through a will executed by Tijjiya Bai.
5. The contesting claim about title and ownership of the property shall be adjudicated by the trial Court at the end of trial.
6. Once there is a concurrent finding that the plaintiffs do not have a *prima facie* case in their favour, this Court, in exercise of powers under Article 227 of the Constitution of India, is not entitled to disturb the said concurrent finding and allow temporary injunction, which by itself is a discretionary jurisdiction available with the trial Court.
7. Considering the facts' situation of the case, without interfering with the impugned order, the petition is disposed of with direction that the trial Court shall do well to decide the suit expeditiously, preferably within a period of 6 months, and while deciding the suit, the trial Court shall not be influenced by the finding recorded in its order dismissing the application of the plaintiffs under Order 39 Rule 1 & 2 of CPC.

Sd/-

(Prashant Kumar Mishra)

Judge

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