

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MA No. 76 of 2018

1. Om Prakash Ahuja, S/o- Late Kunwarmal Ahuja, Aged about- 55 years
R/o- 30, Anand Nagar, Raipur (C.G.)
2. Smt. Neeta Athwani, W/o- Shri Shankar Athwani, Aged about- 46
years, R/o- Near Kanhaiya Cloth Stores, Sarthi Chowk Lakhe Nagar
Raipur (C.G.)
3. Mohit Athwani, S/o- Shri Shankar, Athwani Aged about- 24 years, R/o-
Near Kanhaiya Cloth Lakhe Nagar, Raipur (C.G.)

---- Appellants

Versus

1. Dr. Chandrakant Wagh, S/o- Late Dr. Ramchandra Wagh, Aged about-
62 years, R/o- Bus Stand Rajim Road, Abhanpur, District- Raipur
(C.G.)
2. Arvind Wagh, S/o- Late Dr. Ramchandra Wagh, Aged about- 61 years
R/o- Near Shiv Temple, Street No. 2, Anand Nagar, Raipur (C.G.)
3. Prakash Wagh, S/o- Late Dr. Ramchandra Wagh, Aged about- 65
years, R/o- Behind Upasana Bhawan Tikrapara, Bilaspur (C.G.)
4. Smt. Wasanti Barhad Pandey, D/o- Late Dr. Ramchandra Wagh, Aged
about- 58 years, R/o- Through Office of Commercial Tax, Circle No. 7,
Krishna Glory, Nai Duniya Building, Sai Nagar, Raipur (C.G.)

---- Respondents

For Appellants : Mr. Sameer Oraon and Mr. Manish Thakur, Advocates

For respondent

No.1 & 2 : Mr. Rakesh Pandey and Mr. A. K. Prasad, Advocates

Hon'ble Shri Justice Ram Prasanna Sharma

07.08.2019

JUDGMENT ON BOARD

1. Heard on I.A. No.01/2018, which is an application for condonation of

delay in filing the instant appeal.

2. On due consideration the same is allowed and the delay of 8 days is hereby condoned.
3. This first appeal is preferred under Order 43 Rule 1 (r) of the Code of Civil Procedure, 1908 against order dated 17.05.2018 passed by First Additional District Judge, Raipur (C.G.) in Civil Suit No. 60-A/2017, wherein the said court granted injunction against appellants/defendants not to alienate the property in question which is property bearing Khasra No. 305/2 area 4000 sq. ft. and house No. 31 constructed in 1114 Sq. ft. situated at Telibandha, Ward No. 32, Anand Nagar, Patawari Halka No. 64, Raipur and also not to raise further construction.
4. The appellants claimed right over the property on the basis of registered sale deed executed in their favour by Smt. Usha Wagh and Arwind Wagh on 19th October, 2015.
5. As per the respondent the property in question is joint Hindu family property which is unpartitioned therefore, sale deed executed by two share holders namely Smt. Usha and Arwind Wagh will not transfer specific portion of the property that is why the trial Court granted injunction for not alienating the property and raising construction.
6. Learned counsel for the appellants submits that they are in possession of the property, therefore, they should not be disturbed during the pendency of the litigation. If appellants are in possession of property they shall remain in possession of the property because the

trial Court has not directed anything against possession. The trial Court looking to the prima-facie case of respondent No.1 plaintiff granted interim injunction and looking to the factual matrix of the case the same cannot be termed as unreasonable therefore, the same is not liable to be interfered with.

7. Accordingly, the appeal is dismissed with the above observation.
8. As the trial Court has granted interim order it is expected from trial Court to decide the issues between the parties in an expedite manner as far as possible, preferably within six months from the date of receipt of copy of this order.

Sd/-
(Ram Prasanna Sharma)
Judge