

HIGH COURT OF CHHATTISGARH, BILASPUR

MA No. 75 of 2018

Sukhiram Sahu, S/o- Maharathi Sahu, Aged about- 34 years,
R/o- Kera Road, Janjgir Tahsil- Janjgir, District- Janjgir
Champa (C.G.)

---- Appellant

Versus

1. Abha Paul Tripathi, D/o- Akshay Paul, R/o- B.T.I. Chowk,
Tripathi Complex, Ward No.- 19 Jangir, District- Janjgir
Champa (C.G.)

Present address- Shyam Nagar, Near Durga Mandir, Raipur
Tahsil-District- Raipur (C.G.)

2. Santoshi Dubey, W/o- Prem Rathore, R/o- B.T.I. Chowk,
Tripathi Complex, Ward No. 19, Janjgir, District- Janjgir
Champa (C.G.)

3. State of Chhattisgarh, Through- Collector, Janjgir, District-
Janjgir, Champa (C.G.)

---- Respondents

For Appellant : Mr. Ravindra Sharma, Advocate
For Respondent No.2 : Mr. Pawan Shrivastava, Advocate
For State/respondent : Mr. Ravish Verma, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

17/09/2019

1. This Miscellaneous appeal is preferred under Order 43 Rule 1 (R) of Civil Procedure Code, 1908 against the judgment/decree dated 30th June, 2018 passed by the first Additional District Judge Janjgir, District- Janjgir-Champa (C.G.) in Civil Suit No. 34-A/2017 wherein the said Court dismissed the application filed under Order 39 Rule 1 & 2 of Civil Procedure Code for grant of temporary injunction.
2. In the present case, the property is land and shop constructed at village- Janjgir, Patwari Halka No. 47, Tahsil- Janjgir,

District- Janjgir-Champa (C.G.) Khasra No. 4130/1 area 0.020 Hec.

3. The property was earlier owned by late Vikesh @ Vikash Tripathi who inherited the property from his mother. Said Vikash Tripathi entered into contract to sell the property in question to the appellant vide agreement dated 27th February, 2017. After passing of said Vikash Tripathi name of respondent No. 1 and 2 is substituted. Respondent No. 2 is substantiated as legal representative on the basis of will executed by said Vikash Tripathi in his registered will deed.
4. It is a suit for specific performance of contract and in the said suit the following issues are involved:-
 - i. Whether respondent No.1 is legally wedded wife of diseased Vikash Tripathi.
 - ii. The other issue is whether diseased executed will in favour of respondent No. 2.
 - iii. Again another issue is raised before the trial Court that property in question is mortgaged in Central Bank.
5. The trial Court after considering all these issues opined that it is a case where temporary injunction should be granted as per doctrine of lis pendens. As per Section 52 of the Transfer of Property Act, 1882, any alienation during the pendency of the suit shall be subject to the outcome of the proceeding. It is ordered that any alienation of the property in question by

either side shall be subject to the outcome of the proceeding
between the parties.

6. In view of the above, the present appeal stands disposed of.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle