

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.458 of 2020

- Rajesh Sharma S/o Late Shri Bhawari Lal Sharma Aged About 50 Years
R/o Sankalp Bhawan, Phokatpara, Near Santoshi Mandir, Kasaridih,
District Durg Chhattisgarh

---- Petitioner

Versus

- Pushpa Jain Wd/o P.K. Jain Aged About 75 Years R/o Deepak Nagar,
Durg, District Durg, Chhattisgarh, Through General Power Of Attorney
Holder Shashikant Sukhdev, Son Of Neelkanth Sukhdev, Aged About
49 Years, Resident Of House No. 14, Nature City, Ward No. 46, Amlidih,
Rivagram Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner : Mr. Avinash Chand Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-12-2020

Heard.

1. The present petition under Article 227 of Constitution of India has been brought being aggrieved by the order dated 21.09.2020 passed by the trial Court, in which the order of temporary injunction order dated 04.03.2020 has been extended for further six months without giving any opportunity of hearing to the petitioner.
2. Learned counsel for the petitioner submitted that the hearing in the case was fixed for 02.11.2020. On an interim date on 17.09.2020, the application was filed by the respondent before the trial Court when the normal functioning of the Courts were suspended. No order was passed for issuance of notice to the present petitioner, who is defendant in that case. The case was then fixed for 21.09.2020 and without any notice to the petitioner side, the order was passed for extension of the order of temporary injunction granted on 04.03.2020. It is further submitted that

the petitioner did not have any opportunity of being heard before the passing of this order and he may have apprised the Court of the situation on the date this order was passed, hence, the order passed is not a speaking order and against the principles of natural justice, whereas the order under Order 39 Rule 1 and 2 was passed after hearing both the parties. The right of the petitioner of being heard has not been taken care of by the trial court, hence, interference is prayed for.

3. Notice was issued to the respondent but the same has been returned with note that the respondent does not live on the given address.
4. The learned counsel for the petitioner also submits that this is the address which has been given by the respondent/plaintiff in her plaint. Therefore, the respondent is now playing hide and seek with the petitioner.
5. Heard learned counsel for the petitioner and also perused the documents present.
6. Considered on the submissions, the present petition is disposed off at the motion stage. The order impugned is set aside and the application for extension of the temporary injunction is restored to file. The learned trial Court is directed to give both the parties an opportunity of hearing and then pass appropriate order on the same in accordance with law. It is also ordered that the status quo, whatever is there, shall be maintained by the parties until the application for extension of temporary injunction is disposed off by the trial Court. The application shall be disposed off by the trial Court within a period of one month.
7. Consequently, the petition is disposed off with directions as aforesaid.

Sd/-

(Rajendra Chandra Singh Samant)
Judge