

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.494 of 2021

- Balram Singh Thakur S/o Ishwar Singh Thakur Aged About 40 Years R/o Village Geedha, Tahsil And District Mungeli (Chhattisgarh)

---- Petitioner

Versus

1. Seema Thakur W/o Balram Singh Thakur Aged About 35 Years R/o Village Geedha, Tahsil And District Mungeli (Chhattisgarh)
2. State Of Chhattisgarh Through The Collector, Mungeli, District Mungeli (Chhattisgarh)

---- Respondents

For Petitioner	– Mr. Rajkumar Pali, Advocate.
For Respondent No.01	– Mr. Soumya Rai and Mr. Ankur Kashyap, Advocates.
For State	– Ms. Sameeksha Gupta, Panel Lawyer.

S.B.- Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

01-12-2021

1. Heard.
2. The petitioner is before this Court being aggrieved by the order dated 10.09.2021, passed in Miscellaneous Civil Appeal No.06/2021 by the Court of District Judge, Mungeli, District- Mungeli, C.G. dismissing the appeal and modifying the order of the trial Court dated 10.03.2021 passed in application under Order 39 Rule 1 & 2 of C.P.C. directing that the petitioner shall not interfere in the peaceful possession of the respondent No.1 either himself or through any agent.
3. It is submitted by learned counsel for the petitioner that the impugned order is erroneous and arbitrary. The petitioner is challenging the validity of the registered gift deed on the basis of which the respondent No.1 is claiming title and possession. The mother of the petitioner is also a necessary party in the Civil Suit as she is the person who has

transferred the disputed property to respondent No.1 by the registered gift deed. There was no prima- facie case, irreparable loss or balance of convenience in favour of the respondent No.1, even then the order has been passed granting temporary injunction. Hence, the impugned order is not sustainable.

4. Learned counsel for the respondent opposes the submissions and submits that the learned appellate Court has passed the order after due consideration of all the facts and circumstances and holding that there is prima-facie case, irreparable loss and balance of convenience, in favour of the respondent No.1. It is also submitted that the gift deed is a registered instrument executed by the mother of the petitioner. The mother of petitioner is not challenging the said gift deed. Further, the respondent No.1 is residing with the mother of the petitioner and she is in possession of the disputed land. Therefore, the impugned orders are sustainable. Therefore, the petition may be dismissed and disposed off.
5. Considered on the submissions, perused the documents present on record. After perusal of the impugned orders, I am of this view that there is no error committed by the Courts below in granting temporary injunction to the respondent No.1, however, there is a dispute raised by the petitioner regarding the land in question, therefore, this petition is disposed off at the motion stage with a partial modification that the property in dispute shall not be alienated nor any third party interest shall be created during the pendency of the Civil Suit between the parties.
6. With these directions, the impugned orders are confirmed and the petition stands disposed off.