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HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 22 of 2022

Hanuman Mandir (Murti) Through Mahant Saket Bihari Guru Chetandas, Aged About 70 Years, S/o Chetandas Mahant, R/o Hanuman Mandir Dongargarh, District Rajnandgaon Chhattisgarh.

... Petitioner(s)

versus

1 - Rajesh Kumar S/o Nanka Prasad Morya Aged About 55 Years R/o Kalkapara, Dongargarh, District Rajnandgaon Chhattisgarh.

2 - Harpal Singh S/o Harvansh Singh Aged About 49 Years R/o Khandurpara, Dongargarh, District Rajnandgaon Chhattisgarh.

3 - Guljeet Singh S/o Harbansh Singh Aged About 45 Years R/o Khandurpara, Dongargarh, District Rajnandgaon Chhattisgarh.

4 - Sandeep Kour Chabda W/o Harpal Singh Aged About 45 Years R/o Khandurpara, Dongargarh, District Rajnandgaon Chhattisgarh.

5 - Dimpal Kour Chabda W/o Guljeet Singh Aged About 40 Years R/o Khandurpara, Dongargarh, District Rajnandgaon Chhattisgarh.

6 - Executive Engineer Public Works Department, Setu Nirman Sambhag, Rajnandgaon Chhattisgarh.

7 - The Collector District Rajnandgaon Chhattisgarh.

... Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner(s) **:** Mr. Parag Kotecha, Advocate.

For Respondent/State **:** Ms. Isha Jajodia, Panel Lawyer.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.
Order on Board

08/10/2026

1. The petitioner has filed the present writ petition under Article 227 of the Constitution of India against the order dated 07.12.2021, passed by the learned Additional District Judge, Dongargarh, District Rajnandgaon, in Misc. Civil Appeal No. 02/2021, whereby the learned Additional District Judge dismissed the petitioner's miscellaneous civil appeal and affirmed the order dated 31.03.2021 passed by the learned Civil Judge Class-2, Dongargarh, District Rajnandgaon, in Civil Suit No. 10-A/2020.

2. Learned counsel for the petitioner would submit that the suit property comprising Khasra Nos. 1630 and 1631, admeasuring 3.35 acres, situated at Dongargarh, belongs to Hanuman Temple and was duly recorded in the name of the temple pursuant to the order passed by the Sub-Divisional Officer, Dongargarh, directing restoration of the revenue entries. It is submitted that the temple and its deity are juristic persons capable of holding property and that the property of the deity cannot be validly transferred without obtaining permission from the competent court. The sale deed dated 30.10.1957, allegedly executed by the then Manager Mahant Laxmandas Guru Sitaram Das in favour of Nanka Prasad Maurya and Sarju Prasad, without obtaining such permission, did not confer any valid title upon the purchasers. Consequently, Rajesh, the successor of Nanka Prasad Maurya, could not have acquired any right, title or interest in the suit property or transferred any such right in favour of respondent Nos. 2 and 3, namely, Harpal Singh and Guljeet Singh.

3. Learned counsel would further submit that the Tahsildar, Dongargarh, in Revenue Case No. 8/3/06(A)/2019-20, vide order dated 29.08.2020, illegally directed correction of the revenue records by reducing the area recorded under Khasra Nos. 1630 and 1631 from 3.35 acres to 2,180 square feet, solely on the basis of an inquiry report and without affording the petitioner an opportunity to cross-examine the Revenue Inspector and Patwari. It is further submitted that the aforesaid land is distinct from the lands recorded under Khasra Nos. 421/1, 421/3, 421/4 and 421/5, which are claimed by the private respondents, but the Tahsildar erroneously treated the two sets of lands as one and the same. The impugned revenue proceedings are contrary to law and cannot defeat the petitioner's lawful rights over the suit property.

4. Learned counsel would also submit that respondent Nos. 2 and 3 are claiming compensation in respect of the disputed land proposed to be acquired by the State authorities under the mutual consent land purchase policy, 2016, for construction of a railway underbridge, and a public notice in that regard was published on 21.02.2020. Despite the petitioner's written objection, no appropriate action was taken, and there is a likelihood that compensation would be disbursed to persons who have no lawful title over the suit property. It is argued that such disbursement would cause irreparable injury to the petitioner and may also expose the State to protracted recovery proceedings. The petitioner, therefore, has a prima facie case, the balance of convenience lies in his favour, and no comparable prejudice would be caused to the respondents if disbursement of compensation in respect of the disputed land is restrained until adjudication of the rights of the parties. The learned trial Court rejected the application of the petitioner

without considering the entire facts of the present case, the rights of the plaintiff and the law applicable to the case. The learned appellate Court also erred in not considering the true aspect of the case and has dismissed the appeal in untenable grounds. On these grounds, learned counsel prays that the application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, be allowed and an order of temporary injunction be granted.

5. Learned counsel appearing for respondent Nos. 6 and 7/State would submit that the petitioner has failed to produce any document demonstrating his status as Mahant, Manager or Pujari of Hanuman Temple or establishing the ownership of the temple over the disputed land. As per the revenue records, Khasra Nos. 421/1, 421/4 and 421/5 stand recorded in the names of respondent Nos. 2 and 3, whereas Khasra No. 421/3 stands recorded in the names of respondent Nos. 4 and 5. Respondent Nos. 2 and 3 acquired the land through registered sale deeds dated 23.04.2003, while respondent Nos. 4 and 5 acquired their share through a registered gift deed dated 23.09.2017. It is further submitted that the private respondents have been found in possession of the respective lands since their acquisition, and the petitioner has neither produced any prima facie documentary evidence establishing his title nor challenged the possession of the private respondents or their predecessors for several decades after the alleged transfer dated 30.10.1957.

6. Learned State counsel appearing for respondent Nos. 6 and 7 would submit that the railway underbridge on the Howrah-Mumbai railway route is being constructed under the supervision of the Railways, with

the concerned authorities and the Railways contributing equally towards the construction cost. It is submitted that the work is being undertaken after preliminary examination of the land ownership documents furnished by respondent Nos. 2 to 5, and the concerned railway authority has not been impleaded as a party to the proceedings. It is, therefore, submitted that the petitioner has failed to establish a prima facie case, balance of convenience or irreparable injury warranting the grant of temporary injunction, and the application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure has rightly been rejected by the learned trial Court and by the appellate Court, which does not warrant interference and the petition is liable to be dismissed.

7. I have heard learned counsel for the parties and perused the documents annexed with the petition.

8. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court is of the considered opinion that the controversy in the present petition is confined to examining the legality and propriety of the orders passed by the learned trial Court and the appellate Court rejecting the petitioner's application under Order XXXIX Rules 1 and 2 of the CPC. It is well settled that, while considering an application for temporary injunction, the Court is required to examine whether the applicant has established a prima facie case, whether the balance of convenience lies in his favour and whether refusal to grant injunction would cause irreparable injury. These three requirements are cumulative, and the existence of a prima facie case, by itself, does not entitle a party to an order of temporary

injunction. In **Dalpat Kumar v. Prahlad Singh, (1992) 1 SCC 719**, the Hon'ble Supreme Court explained that a prima facie case means a substantial question requiring investigation and adjudication, and that the Court must also consider the balance of convenience and the likelihood of irreparable injury. Further, in **Wander Ltd. v. Antox India (P) Ltd., 1990 Supp SCC 727**, the Hon'ble Supreme Court held that the grant or refusal of an interlocutory injunction is an exercise of judicial discretion and that an appellate court should not interfere merely because a different view is possible, unless the discretion exercised by the court below is shown to be arbitrary, capricious, perverse or contrary to settled principles of law.

9. In the present case, the petitioner claims that the suit land bearing Khasra Nos. 1630 and 1631, admeasuring 3.35 acres, belongs to Hanuman Temple and that the subsequent transactions in favour of the private respondents could not confer any valid title upon them, as the original transfer dated 30.10.1957 was allegedly effected without obtaining permission from the competent court. However, the material placed before this Court, as reflected in the pleadings, indicates that respondent Nos. 2 and 3 claim rights on the basis of registered sale deeds dated 23.04.2003, whereas respondent Nos. 4 and 5 claim rights under a registered gift deed dated 23.09.2017, and the relevant revenue records stand in their names. The petitioner has also raised a dispute regarding the identity and correlation of the lands recorded under Khasra Nos. 1630 and 1631 and those recorded under Khasra Nos. 421/1, 421/3, 421/4 and 421/5. These questions involve disputed facts relating to the identity of the property, the petitioner's authority to represent the deity, the nature of the original transfer and the

respective rights of the parties, which cannot be conclusively determined at the interlocutory stage. Although revenue entries do not, by themselves, confer title, the mere allegation that the original transfer was invalid does not automatically establish the petitioner's entitlement to an injunction. In **Bishwanath v. Shri Thakur Radha Ballabhji, AIR 1967 SC 1044**, the Hon'ble Supreme Court recognised the juristic personality of a Hindu deity and the right of a worshipper having a legitimate interest to protect the deity's property in appropriate circumstances. Nevertheless, the petitioner must establish a prima facie basis for the relief claimed, including his entitlement to maintain the proceedings in the capacity asserted. At this stage, the competing claims of title and the legal effect of the disputed transactions remain matters for adjudication by the competent civil court on the basis of evidence.

10. So far as the apprehension regarding disbursement of compensation is concerned, the petitioner has to demonstrate that the proposed disbursement relates to the very land claimed by him and that refusal to grant the injunction would cause an injury incapable of adequate redress through the remedies available in law. The record, as summarised in the pleadings, also indicates that the railway underbridge project is nearing completion and that the construction is being undertaken under the supervision of the Railways, which has not been impleaded as a party to the proceedings. In these circumstances, an order restraining the construction of a public infrastructure project cannot be granted merely on the basis of disputed claims of title. The question of disbursement of compensation, however, is distinct from the question of construction and must be considered with reference to

the precise relief sought, the identity of the land and the evidence available before the trial Court. In the absence of material demonstrating that the learned trial Court and the appellate Court ignored relevant evidence, applied an erroneous legal principle or exercised their discretion arbitrarily or perversely, this Court, exercising supervisory jurisdiction under Article 227 of the Constitution of India, would not substitute its own discretion for that of the Courts below.

11. In the case of "**Shalini Shyam Shetty and another v. Rajendra Shankar Patil**" 2010 (8) SCC 329, the Hon'ble Supreme Court has held that:-

> "**40.** Same principles have been followed by this Court in Mani Nariman Daruwala v. Phiroz N. Bhatena [(1991) 3 SCC 141], wherein it has been held that in exercise of its jurisdiction under Article 227, the High Court can set aside or reverse finding of an inferior court or tribunal only in a case where there is no evidence or where no reasonable person could possibly have come to the conclusion which the court or tribunal has come to. This Court made it clear that except to this "limited extent" the High Court has no jurisdiction to interfere with the findings of fact (see SCC pp. 149-50, para 18). In coming to the above finding, this Court relied on its previous decision rendered in Chandavarkar Sita Ratna Rao v. Ashalata S. Guram [(1986) 4 SCC 447]. The decision in Chandavarkar is based on the principle of the Constitution Bench judgments in Waryam Singh [Waryam Singh v. Amarnath, AIR 1954 SC 215] and Nagendra Nath [Nagendra Nath Bora v. Commr. of Hills Division and Appeals, AIR 1958 SC 398] discussed above.
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> **41.** To the same effect is the judgment rendered in Laxmikant Revchand Bhojwani v. Pratapsing Mohansingh Pardeshi [(1995) 6 SCC 576]. In SCC para 9 at pp. 579-80 of the Report, this Court clearly reminded the High Court that under Article 227 that it cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. Its exercise must be restricted to grave dereliction of duty and flagrant abuse of fundamental principles of law and justice.

42. Same views have been taken by this Court in respect of the ambit of High Court's power under Article 227 in Lonand Grampanchayat v. Ramgiri Gosavi [AIR 1968 SC 222] (see AIR pp. 222-34, para 5 of the Report) and the decision of this Court in Jijabai Vithalrao Gajre v. Pathankhan [(1970) 2 SCC 717]. The Constitution Bench ratio in Waryam Singh [Waryam Singh v. Amarnath, AIR 1954 SC 215] about the scope of Article 227 was again followed in Almedabad Mfg. & Calico Ptg. Co. Ltd. v. Ram Tahel Ramnandis [(1972 1 SCC 898].

43[*]. In a rather recent decision of the Supreme Court in Surya Dev Rai v Ram Chander Rai [(2003) 6 SCC 675], a two-Judges Bench of this Court discussed the principles of interference by the High Court under Article 227. Of course in Surya Dev Rai [Surya Dev Rai v Ram Chander Rai [(2003) 6 SCC 675], this Court held that a writ of certiorari is maintainable against the order of a civil court, subordinate to the High Court (SCC p. 688, para 19 of the Report). The correctness of that ratio was doubted by another Division Bench of this Court in Radhey Shyam v. Chhabi Nath [(2009) 5 SCC 616] and a request to the Hon'ble Chief Justice for a reference to a larger Bench is pending. But insofar as the principles on the scope of interference by the High Court under Article 227 is concerned, there is no divergence of views.

44. In para 38 sub-para (4) at SCC p. 695 of the Report, the following principles have been laid down in Surya Dev Rai [Surya Dev Rai v Ram Chander Rai [(2003) 6 SCC 675] and they are set out:

> "38.(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction."

45. Sub-paras (5), (7) and (8) of para 38 are also on the same lines and extracted below: (Surya Dev Rai case [Surya Dev Rai v Ram Chander Rai [(2003) 6 SCC 675], SCC pp. 695-96)

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* **Ed.**: Para 43 corrected vide Official Corrigendum No. F.3/Ed.B.J./84/2010 dated 26-08-2010.

> "38.(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.
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> (6) * *
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> (7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceeding in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred thereagainst and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene b would result in travesty of justice or where such refusal itself would result in prolonging of the lis.
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> (8) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character."

49. On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:

> (a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two articles is also different.

(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of superintendence on the High Courts under Article 227 and have been discussed above.

(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh [Waryam Singh v. Amarnath, AIR 1954 SC 215] and the principles in Waryam Singh [Waryam Singh v. Amarnath, AIR 1954 SC 215] have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in Waryam Singh [Waryam Singh v. Amarnath, AIR 1954 SC 215], followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, "within the bounds of their authority".

(f) In order to ensure that law is followed by such tribunals and a courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(i) The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in L. Chandra Kumar v. Union of India [(1997) 3 SCC 261 : 1997 (L&S) 577] and therefore abridgment by a constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

(n) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief

in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.

(o) An improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality."

12. Accordingly, no ground for interference with the concurrent orders rejecting the application for temporary injunction is made out, and the writ petition is liable to be and hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Alok