CGHC010433112026

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MA No. 157 of 2026

1 - Amit Kumar Dewangan S/o Shri Sunder Lal Dewangan Aged About 46 Years R/o Village Katgi, Tahsil Kasdol, Distt Balodabazar Bhatapara C. G.

... Appellant (s)

versus

1 - Dayaram Sahu S/o Shri Dulariram Sahu Aged About 61 Years R/o Village Katgi, Tahsil Kasdol, Distt Balodabazar Bhatapara C. G.

2 - State Of Chhattisgarh Through Collector Balodabazar, Distt Balodabazar Bhatapara C. G.

... Respondent(s)

For Appellant (s)	:	Mr. Sahil Sahu, Advocate
For State / Respondent No. 2	:	Ms. Swati R. Gupta, PL

Hon'ble Shri Justice Sachin Singh Rajput

Judgment on Board

04/11/2026

The challenge in this Miscellaneous Appeal, preferred under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908 (for short, 'the CPC'), is to the order dated 13.08.2026 passed by the learned 1st District Judge, Balodabazar, District Balodabazar-Bhatapara (C.G.) (for short, 'the Trial Court'), in Civil Suit No. 06-B of 2026, whereby the application filed by the

appellant/plaintiff under Order 39 Rules 1 and 2 of the CPC seeking temporary injunction has been dismissed.

2. Learned counsel for the appellant submits that an agreement was executed between the appellant/plaintiff and respondent No. 1/defendant No. 1 for keeping the property comprised in a piece of Khasra No. 1212/05, admeasuring 0.014 hectare, upon which a house is constructed, situated at Village Katgi, P.H. No. 18, R.I.C. and Tahsil Kasdol, District Balodabazar-Bhatapara (C.G.), as security / mortgage for a loan amount of Rs. 13,72,500/-. According to the terms and conditions of the agreement, the said amount was to be paid by 16.03.2021 and, in the event of failure by respondent No. 1/defendant No. 1 to repay the amount, the sale deed of the said property was to be executed and registered in favour of the appellant/plaintiff or any other person nominated by the appellant/plaintiff. In the event that the sale deed was not executed and registered, the appellant/plaintiff would be at liberty to get it executed through legal means. He further submits that, as the respondent No. 1/defendant No. 1 failed to return the aforesaid amount, the appellant/plaintiff instituted a suit for recovery of Rs.13,72,500/- before the learned Trial Court. Along with the suit, an application under Order 39 Rules 1 and 2 of the CPC was also filed, seeking a temporary injunction restraining the respondent No. 1/defendant No. 1, during the pendency of the suit, from alienating the suit property by way of mortgage, sale, gift, will or otherwise. However, by the impugned order, the learned Trial Court rejected the said application.

3. Learned counsel for the appellant further submits that the learned trial Court has failed to appreciate that the suit property was kept as security for repayment of the loan amount. He submits that, in the event of alienation of the suit property in favour of a third party, the appellant/plaintiff would suffer irreparable loss and would face difficulty in

recovering the amount that may ultimately be decreed by the learned trial Court. He further submits that, in view of the agreement executed between the parties, a prima facie case exists in favour of the appellant/plaintiff and the other two ingredients, balance of convenience and irreparable loss, are also in his favour. These aspects have not been properly considered by the learned trial Court while deciding the application. Therefore, the impugned order deserves to be interfered with and the appeal may be admitted by issuing notice to the respondents.

4. Ms. Swati, learned counsel for the State/respondent No. 2 submits that the dispute is essentially between the private parties and that the State is merely a formal party to the proceedings.

5. Heard learned counsel for the parties and perused the documents appended to the memo of appeal.

6. In order to obtain an order of temporary injunction under Order 39 Rules 1 and 2 of the CPC, the appellant/plaintiff is required to establish three essential ingredients i.e. prima facie case, balance of convenience and irreparable loss. In the absence of any one of these ingredients, an order of temporary injunction cannot be granted. From the admitted facts, it is apparent that the suit has been filed for recovery of the aforesaid amount. The respondent No. 1/defendant No. 1 has also filed his written statement as well as reply to the injunction application, categorically denying the execution of the alleged agreement and pleading that the same is forged.

7. The learned trial Court, while deciding the application, observed that the appellant/plaintiff had filed a suit for recovery of money and not for specific performance of the contract. It further noted that the suit property stands recorded in the revenue records in the name of respondent No. 1/defendant No. 1. Accordingly, it held that grant of injunction would cause inconvenience and irreparable loss to respondent No. 1/defendant No. 1.

8. In the opinion of this Court, as the appellant/plaintiff has failed to

establish the three essential ingredients, as discussed above, the learned trial Court has committed no illegality or material irregularity in passing the impugned order. Accordingly, the appeal, being devoid of merits, is hereby **dismissed** at the admission stage.

Sd/-
(Sachin Singh Rajput)
JUDGE

Pawan