



2026:CGHC:17476

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MA No. 157 of 2025**

**1** - Chandrashekhar Chandrakar S/o Paras Chandrakar Aged About 25 Years R/o Shradha Nagar Aama Talab Road Dhamtari, Tehsil And District- Dhamtari C.G.

**2** - Paras Chandrakar S/o Ghasuram Chandrakar Aged About 58 Years R/o Shradha Nagar Aama Talab Road Dhamtari, Tehsil And District- Dhamtari C.G.

**3** - Nikunj Shinde S/o Late Chandrashekhar Raom Aged About 30 Years R/o Bans Para Ward Dhamtari, Tehsil And District- Dhamtari CG.

**4** - Ambika Shinde D/o Late Chandrashekhar Raom Aged About 25 Years R/o Bans Para Ward Dhamtari, Tehsil And District- Dhamtari CG.

**5** - Sita Shinde Wd/o Late Chandrashekhar Raom Aged About 30 Years R/o Bans Para Ward Dhamtari, Tehsil And District- Dhamtari CG.

**... Appellant(s)**

**versus**

**1** - Nikhilesh Kumar S/o Late Maheshwarsingh Gautam Aged About 35 Years R/o Junior MIG -1, Hatkesar Colony, Dhamtari Tehsil And District- Dhamtari CG.

**2** - Kamalkant Kumar S/o Late Maheshwar Singh Gautam Aged About 33 Years R/o Junior MIG -1, Hatkesar Colony, Dhamtari Tehsil And District- Dhamtari CG.

**3** - Madhuri D/o Late Maheshwar Singh Gautam Aged About 37 Years R/o Junior MIG -1, Hatkesar Colony, Dhamtari Tehsil And District- Dhamtari CG.

**4** - Laxmi Wd/o Late Maheshwar Singh Gautam Aged About 61 Years R/o Junior MIG -1, Hatkesar Colony, Dhamtari Tehsil And District- Dhamtari CG.

**5** - State Of Chhattisgarh Through Collector, Dhamtari District- Dhamtari, C.G.

.... Respondent(s)

**(Cause title is taken from CIS)**

For Appellant(s)	: Mr. Shobhit Koshta, Advocate
For Respondent/ State	: Mr. Lekhram Dhruw, Panel Lawyer

**Hon'ble Shri Justice Bibhu Datta Guru**

**Judgment on Board**

**16/04/2026**

1. The appellants/ defendants have preferred the present appeal under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908, being aggrieved by the order dated 29.07.2025 passed by the learned District Judge, Dhamtari, District Dhamtari (C.G.) in Civil Suit No. 5-A/2023 (Nikhilesh Kumar & Ors. vs. Chnadrashekhhar

Chandrakar & Ors.), whereby the learned trial Court allowed the application filed by the plaintiffs under Order 39 Rules 1 & 2 r/w Section 151 of CPC, seeking temporary injunction in respect of the suit property.

2. (a) The plaintiffsp/ respondents No.1 to 4 herein have instituted a suit against the defendants seeking declaration, permanent injunction and damages.

(b) In the said suit, the plaintiffs have also filed an application under Order 39 Rules 1 and 2 r/w Section 151 of the CPC, stating therein that the father of plaintiff Nos. 1 to 3 and husband of plaintiff No. 4, late Maheshwar Singh Gautam, had purchased the suit property bearing Khasra No. 401/16 admeasuring 2420 sq. ft., situated at village Rudri Khar, Dhamtari, by a registered sale deed dated 13.07.2007 and had obtained possession thereof. After his demise, the plaintiffs continued to remain in peaceful possession of the said property. It is alleged that the defendants, on the basis of a disputed demarcation conducted without proper notice to the plaintiffs, attempted to interfere with their possession by damaging the boundary wall and gate and making efforts to encroach upon the suit property. The plaintiffs have further pleaded that the demarcation proceedings were conducted arbitrarily, without proper measurement and without affording them an opportunity of hearing, resulting in an erroneous report treating them as encroachers. Hence, asserting prima facie case, balance of convenience and irreparable loss, the plaintiffs have sought grant

of temporary injunction restraining the defendants from interfering with the suit property during pendency of the suit.

3. *Per contra*, the defendant Nos. 1, 3, 4 & 5 have filed their reply to the said application, denying the averments made by the plaintiffs and contending that the plaintiffs' land bearing Khasra No. 401/16 admeasuring 2420 sq. ft. is situated at Siddhivinayak Colony, whereas the land owned by the defendants bearing Khasra No. 401/13 admeasuring 2100 sq. ft. is situated at Kailashpati Nagar. It is further contended that no encroachment or damage has been caused by the defendants to the plaintiffs' property and the defendants are in lawful possession of their own land, which was purchased through a registered sale deed dated 24.07.2018. The defendants have also relied upon the demarcation proceedings conducted by the Revenue Inspector and the order dated 03.05.2022 passed by the Tahsildar, which has been affirmed in revision by the Collector, Dhamtari. Hence, the defendants have prayed for rejection of the application filed by the plaintiffs for temporary injunction.
4. After hearing the parties and upon consideration of the facts and material available on record, the learned Trial Court allowed the application filed by the plaintiffs under Order 39 Rules 1 & 2 r/w Section 151 of the CPC, holding that the dispute pertains to identification of the suit property and the plaintiffs, being prior purchasers under a registered sale deed dated 13.07.2007, have been able to establish a prima facie case in their favour. The Trial

Court further observed that the demarcation report also indicates the possession of the plaintiffs over the suit property and the claim of the defendants regarding the land being situated at a different location is not reliable at this stage. It was also held that the balance of convenience lies in favour of the plaintiffs and any interference by the defendants would cause irreparable loss to them. Accordingly, the application for temporary injunction was allowed, restraining the defendants from interfering with the suit property till final disposal of the suit or until further orders.

5. Learned counsel for the appellants/defendants submits that the learned Trial Court has committed a grave error in passing the impugned order without properly appreciating the pleadings and the oral as well as documentary evidence available on record. He submits that no prima facie case, balance of convenience or irreparable loss is made out in favour of the plaintiffs for grant of temporary injunction. He further submits that the appellants are in possession of the suit property pursuant to demarcation proceedings and orders passed by the competent revenue authority under Section 250 of the Chhattisgarh Land Revenue Code, and such possession has not been challenged before any competent forum. He contends that the plaintiffs have suppressed material facts regarding the revenue proceedings and have not approached the Court with clean hands. Therefore, the impugned order granting injunction is erroneous and liable to be set aside.

6. I have heard learned counsel for the appellants, perused the record and the impugned order with utmost circumspection.
7. After hearing learned counsel for the defendants at length and upon careful consideration of the entire material available on record, this Court finds that the learned Trial Court has meticulously examined the pleadings and the oral as well as documentary evidence in their proper perspective. The Trial Court has rightly appreciated that the dispute between the parties essentially relates to identification of the same parcel of land, in respect of which rival claims have been set up on the basis of separate sale deeds. On evaluation of the documents, particularly the registered sale deed dated 13.07.2007 in favour of the plaintiffs, the Trial Court has correctly held that the plaintiffs are prior purchasers and, at this stage, have been able to establish a prima facie case in their favour.
8. The Trial Court has further taken into account the demarcation report and other material on record, and has recorded a categorical finding that the possession of the suit property was with the plaintiffs. It has also been observed that the plea of the defendants regarding separate identity of the land does not appear to be reliable at this stage, especially in view of the inconsistencies reflected in the demarcation proceedings. In such circumstances, the finding of the Trial Court that the balance of convenience lies in favour of the plaintiffs, who are in settled possession, cannot be said to be erroneous. The Trial Court has

also rightly concluded that any interference with such possession during pendency of the suit would result in irreparable injury to the plaintiffs, which cannot be adequately compensated.

9. This Court further finds that the learned Trial Court has dealt with the contentions raised by the defendants, including the proceedings before the revenue authorities, and has assigned cogent and convincing reasons for not placing reliance on the same at this stage. The order impugned reflects due application of mind and is based on settled principles governing grant of temporary injunction. No perversity, illegality, or jurisdictional error is demonstrated so as to warrant interference by this Court in exercise of appellate jurisdiction.
10. This Court is of the considered opinion that the learned Trial Court has rightly allowed the application under Order 39 Rules 1 & 2 r/w Section 151 of the CPC. The impugned order being well reasoned and legally sustainable calls for no interference.
11. Accordingly, the present appeal, being devoid of merit, liable to be and is hereby **dismissed**.

Sd/-  
**(Bibhu Datta Guru)**  
**Judge**