



2026:CGHC:10285



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 255 of 2026

1 - Smt. Shanti W/o Santosh Jain Aged About 60 Years Through Harshad Kumar Jain, Son Of Late Santosh Kumar Jain, Aged About 47 Years, Resident Of Ward No. 5, Old Bus Stand, Berla, Tehsil Berla, District Bemetara (C.G.) **... Petitioner(s)**

versus

1 - Hemchand Dewangan S/o Late Parmanand Dewangan Aged About 45 Years R/o Pragati Nagar, Risali, Bhilai, District Durg (C.G.)
2 - Tamanlal Dewangan S/o Late Parmanand Dewangan Aged About 47 Years R/o Pragati Nagar, Risali, Bhilai, District Durg (C.G.)
3 - State Of Chhattisgarh Through Collector, Bemetara, District Bemetara (C.G.) **... Respondent(s)**

For Petitioner(s)	:	Mr. Ankur Agrawal, Advocate
For State / Respondent(s) No. 3	:	Mr. Sanjay Yadav, PL

Hon'ble Shri Justice Sachin Singh Rajput

Order on Board

27/02/2026

Heard on admission.

2. This writ petition under Article 227 of the Constitution of India has been filed assailing the legality, correctness and judicial propriety of the order dated 19.12.2025 passed in Misc. Civil Appeal No. 12 of 2025 by the Principal District Judge, Bemetara, CG. By the order impugned, the learned District Judge has dismissed the appeal filed by the petitioner under Order



43 Rule 1 CPC and affirm the order of Second Civil Judge Junior Division, Bemetara, District Bemetara, CG in Civil Suit No. 47-A of 2025 by which the application under Order 39 Rule 1 & 2 CPC filed by the respondent Nos. 1 & 2 was allowed.

3. Learned counsel for the petitioner submits that the petitioner is the defendant in the civil suit whereas respondent Nos. 1 and 2 are the plaintiffs who have filed a suit for declaration, possession and permanent injunction against the petitioner/defendant No. 1 in respect of the suit property comprised in piece of Khasra No. 1705/4 area 0.08 hectare, situated at Village Berla, P.H. No. 15, R.I.C. Berla, District Bemetara, Chhattisgarh. It is the case of respondent Nos. 1 and 2/plaintiffs that the suit property was received by them from their father and is ancestral in nature. It is further pleaded that the plaintiffs are residing at Bhilai and upon visiting their village, they found that the petitioner/defendant No. 1 was raising construction over the suit land. On suspicion that the construction was being carried out on the suit property a demarcation was conducted which revealed that the petitioner/defendant No. 1 was encroaching upon the suit property. Consequently, the civil suit was filed along with an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure. The petitioner/defendant No. 1 filed a reply to the said application denying the averments made therein. The learned Civil Judge vide its order dated 09.10.2025 allowed the application under Order 39 Rules 1 and 2 CPC and granted temporary injunction restraining the petitioner/defendant No. 1 from making any construction over the suit property. Aggrieved by the said order, the petitioner/defendant No. 1 preferred a Miscellaneous Appeal before the learned District Judge. However, the said Miscellaneous Appeal was dismissed by the impugned order, thereby affirming the order passed by the learned Civil Judge.

4. Learned counsel for the petitioner further submits that respondent



Nos. 1 and 2/plaintiffs failed to establish a prima facie case, balance of convenience and irreparable loss in their favour which are the essential ingredients for grant of temporary injunction. He contends that the learned Civil Judge has placed reliance upon a demarcation report filed before the trial Court which appears to be a forged and fabricated document. Even on a bare perusal, it is apparent that interpolations have been made and additional lines have been inserted in the recitals of the demarcation report. It is further submitted that the area of the subject land has been altered, and therefore, the findings recorded by the learned Civil Judge, as affirmed by the learned District Judge, are erroneous and unsustainable in law, as none of the aforesaid three ingredients stands satisfied in favour of respondent Nos. 1 and 2/plaintiffs. Learned counsel further submits that the alleged demarcation was conducted behind the back of the petitioner/defendant No. 1, without notice or opportunity of participation. He submits that the petitioner/defendant No. 1 is raising construction on her own land, and if ultimately the civil suit fails, the petitioner would have been wrongly restrained from constructing on her own property, thereby causing grave prejudice, tilting the balance of convenience and resulting in irreparable loss in her favour including the prima facie case.

5. Heard learned counsel for the petitioner and perused the documents on record.

6. Perusal of the record indicates that the suit property is in dispute between the petitioner and respondent Nos. 1 and 2. From the pleadings, the case of the plaintiffs emerges that the suit property is ancestral in nature and that they were in possession thereof. The contention of Mr. Agrawal is that the learned Civil Judge as well as the learned District Judge committed an error of law by placing reliance upon the demarcation report which appears to be fabricated. This Court is of the considered opinion that such an issue cannot be adjudicated at the stage of proceedings under



Article 227 of the Constitution of India. Whether the said document is forged or fabricated is a matter of evidence and can be established only by leading cogent evidence during the course of trial. Both the Courts below have recorded categorical findings on the issue of *prima facie* case by relying upon the revenue records and the demarcation report. They have also recorded categorical finding that the petitioner/defendant No. 1 is raising construction over the suit property, thereby holding that a *prima facie* case exists in favour of respondent Nos. 1 and 2/plaintiffs. So far as the *balance of convenience* is concerned, the learned Civil Judge has found that if the petitioner/defendant No. 1 is permitted to continue construction, respondent Nos. 1 and 2/plaintiffs would be put to greater inconvenience. It has further been held that non-grant of injunction would result in *irreparable loss* to the plaintiffs. The said findings of fact have been affirmed by the learned District Judge. The law is well settled that while exercising supervisory jurisdiction under Article 227 of the Constitution of India, this Court does not ordinarily interfere with concurrent findings of fact recorded by the Courts below unless the same are shown to be perverse or recorded with material irregularity. Upon perusal of the impugned orders and the material available on record, this Court does not find that the findings suffer from any material irregularity, perversity or are contrary to the record. Accordingly, this Court finds no illegality, perversity or jurisdictional error in the impugned orders warranting interference under Article 227 of the Constitution of India.

7. Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

(Sachin Singh Rajput)

JUDGE