

HIGH COURT OF CHHATTISGARH, BILASPUR

ORDER SHEET

FA No. 111 of 2019

- Jitendra Sharma S/o Dadulal Sharma, Aged About 44 Years R/o Yadunandan Nagar, Bilaspur District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Appellant

Versus

1. Smt. Ramkali Gupta(Dead), Through Legal Representative,
 - 1a. Dhananjay Gupta, aged 32 years, S/o Late Chandrakant Gupta
 - 1b. Ajay Gupta, aged about 28 years, S/o Late Chandrakant Gupta
 - 1c. Ku. Shalini Gupta, aged about 24 years, D/o Late Chandrakant Gupta,All R/o Ward No. 7 Near Shayam Talkies, Bazarpara, Kargiroad, Kota, Tahsil Kota, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. The State Of Chhattisgarh Through Collector, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

--Respondents

19.11.2020	Shri Parag Kotecha, counsel for the appellant. Shri Ravindra Agrawal, counsel for respondents 1a to 1c. Shri Sameer Sharma, Dy. Government Advocate for the State/ respondent No.2. Heard on admission. Admit. No notice is required to issue as the respondents have already made appearance through their counsel. Also heard on I.A.No.1/2019, an application for grant of temporary

injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908.

It is submitted by Shri Parag Kotecha, counsel for the appellant that in pursuance of the agreement to sale dated 28.2.2012 (Ex. P/1), the possession of the suit land was delivered to the appellant/plaintiff by the predecessors-in-interest of the original defendant No.1 namely- Smt. Ramkali Gupta. It is submitted further by him that if the legal representatives of the said defendant have not been restrained from interfering of his peaceful possession and/or for creating any third party interest, pending decision of this appeal, the whole purpose of filing this appeal would be frustrated and in the said event, it would cause an irreparable loss to him.

On the other hand, Shri Ravindra Agrawal, learned counsel appearing for the Legal Representatives of the deceased- defendant No.1, while opposing the aforesaid contention, submits that although it is mentioned in the alleged agreement to sale that the possession of suit land was delivered to the plaintiff- Jitendra Sharma, but he himself has admitted in para 18 of his evidence that possession of the suit land has not been delivered to him. The application is, therefore, liable to be rejected.

Having considered the aforesaid contention of the parties and considering further the evidence of the plaintiff, as reflected from para 18

	of his testimony revealing the fact that the possession of the suit land has not been delivered to him and also in view of the finding of the trial court in relation to issue No.1, I am not inclined to allow this application.
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Accordingly, the application is rejected.

I.A.No.1/2019 stands disposed of.

Post this matter for final hearing in its due course.

Sd/

(Sanjay S. Agrawal)
JUDGE