



2026:CGHC:13423



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 329 of 2026

1 - Ankush Bariyekar S/o Nandram Chakhuriya Aged About 41 Years R/o Talab Par
Kachana Basti, Raipur, Teshil And District Raipur (C.G.)

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through Collector, Raipur, District- Raipur (C.G.)

... **Respondent(s)**

For Petitioner(s) : Dr. Arpit Lall, Advocate.

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

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on Board

20/03/2026

1. Heard.
2. Present is a writ petition under Article 227 of the Constitution of India filed by the petitioner against the order dated 06.02.2026 passed by learned 6th Civil Judge, Junior Division, Raipur, District Raipur in Civil Suit No. 54-A/2026, whereby the application filed by the petitioner under Order 39 Rule 3 of CPC has been rejected.
3. Learned counsel for the petitioner would submit that the petitioner, who is the plaintiff in the civil suit pending before the learned trial Court, is in possession of the subject land since more than 15 years. On 21.01.2026, he was being called by the Tahsildar, Raipur for showing cause and to appear in the



proceeding of hearing. He would further submits that when the petitioner/plaintiff appear before the Tahsildar, concerned clerk would inform him that his building is going to be demolished and thereby, apprehending the proposed demolition of his building, he filed the civil suit for declaration of title and for permanent injunction against the respondent-State. In the civil suit, he filed an application under Order 39 Rule 3 of CPC for grant of ex-parte temporary injunction which was rejected by the learned trial Court, ignoring the principles laid down by the Hon'ble Supreme Court in the case of ***Morgan Stanley Mutual Fund vs Kartick Das*** 1994 (4) SCC 225, there is every apprehension that the building of the petitioner would be demolished by the respondent authorities and by which serious prejudice would be caused and deprived from right of his property, therefore, considering the emergent situation, the learned trial Court ought to have allowed the application and grant ex-parte temporary injunction. The rejection of the application would defeat the interest of the petitioner and the same may be allowed in view of the judgment of ***Morgan Stanley*** (Supra).

4. I have heard learned counsel for the petitioner and perused the material annexed with the petition.
5. From perusal of the document Annexure P/3, it transpires that the Tahsildar, Raipur has served a notice to the petitioner that he is required to appear in the hearing on 19.01.2026 with respect to his construction over the land of Khasra No. 789 situated at village Kachna. From perusal of the plaint Annexure P/4, it transpires that he served with the notice for his appearance on 21.01.2026, and when he appeared in the proceeding before the Tahsildar, Raipur he came to apprehend that his construction would be demolished and considering his apprehension he filed the civil suit for declaration of title and permanent injunction. Along with application he also filed an application under Order 39 Rule 3 of CPC, though in the petition the copy of the said application has not been annexed to demonstrate as to what



prayer and what averment was made in the said application, yet this Court considers the observation made by the learned trial Court and in its order dated 06.02.2026 that the petitioner has pray for an ex-parte temporary injunction under Order 39 Rule 3 of CPC without issuing the notice to the opposite party. He would also submits that considering the apprehension that his construction will be demolished at any time by the authorities concerned and ex-parte interim injunction should be granted to the petitioner appears to be misconceived on the ground that he only apprehend that his construction would be demolished. There is no order passed by Tahsildar for demolition of his construction it is only his apprehension that construction would be demolished. True it is that it has been held by the Hon'ble Supreme Court in ***Morgan Stanley*** (Supra) that in emergent situation the ex-parte interim injunction could be granted in exceptional circumstances, however, in view of the facts available in the present case there is no exceptional or emergent situation appears for granting of ex-parte temporary injunction. The civil suit of the petitioner has already pending before the learned trial Court.

6. Accordingly, I do not find any merits in the petition and the same is liable to be and hereby **dismissed**.

Sd/-

(Ravindra Kumar Agrawal)
Judge