



2026:CGHC:15431
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR
WP227 No. 367 of 2026

1 - Smt. Mamta Sonkar D/o Shri Ramdular Sonkar Aged About 49 Years W/o Shri Devendra Kumar Sonkar, R/o Baijnath Para, Ward No. 39, Distt. Durg, Chhattisgarh.

... Petitioner(s)

Versus

1 - Shri Ramdular Sonkar S/o Late Shri Ramnarayan Sonkar Aged About 75 Years R/o Ashwani Nagar, Mahadev Ghat Road, Sonkar Badi, Tehsil And Distt. Raipur, Chhattisgarh.

2 - Shri Akhilesh Sonkar S/o Shri Ramdulare Sonkar Aged About 47 Years R/o Ashwani Nagar, Mahadev Ghat Road, Sonkar Badi, Tehsil And Distt. Raipur, Chhattisgarh.

3 - Shri Nitesh Sonkar S/o Shri Ramdulare Sonkar Aged About 43 Years R/o Ashwani Nagar, Mahadev Ghat Road, Sonkar Badi, Tehsil And Distt. Raipur, Chhattisgarh.

4 - Smt. Aarti Shakar D/o Shri Ramdulare Sonkar Aged About 51 Years W/o Shri Mahendra Shakar, R/o Quarter No. 18/f Road, 32, Sector 10, Bhilai, Distt. Durg, Chhattisgarh.

5 - Smt. Archana Sonkar D/o Shri Ramdulare Sonkar Aged About 45 Years W/o Shri Kavi Sonkar, R/o Ashwani Nagar, Mahadev Ghat Road, Sonkar Badi, Tehsil And Distt. Raipur, Chhattisgarh.

... Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	:	Ms. Nupoor Sonkar, Advocate.
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Hon'ble Shri Justice Ravindra Kumar Agrawal, J

Order on Board

02.04.2026

1. Heard.
2. The present under Article 227 of the Constitution of India has been filed by the petitioner against the order dated 11.03.2026 passed by Illrd Additional District Judge, Raipur, in Misc. Civil Appeal No.25/2026 whereby the appeal of the petitioner has been dismissed.
3. The facts of the case are that the petitioner is prosecuting a civil suit before the trial court for declaration of title and permanent injunction over the suit land shown in paragraph 3&4 of the plaint situated at village Raipur. It is pleaded in the plaint that she is daughter of defendant No.1 and the suit land is her ancestral property and along with her brothers and sisters she is having equal right and share over the suit property. To deprive her right from the property, the defendants are trying to alienate the same and the defendant No.1 has already executed a gift deed in favour of defendant No.2&3. Therefore, she filed a suit claiming her title over the property and for permanent injunction. Along with civil suit she also filed an application under Order 39 Rule 1&2 CPC read with Section 151 CPC praying that the defendants may be restrained from alienating the suit property till final adjudication of the suit. The said application for grant of temporary injunction was dismissed by the trial court vide order dated 28.02.2026 holding that the plaintiff has failed to prove prima facie case, balance of convenience and irreparable loss in her favour. The said order dated 28.02.2026 was challenged by the plaintiff in Misc. Appeal before the Illrd Additional District Judge, Raipur, which was also dismissed vide

order dated 11.03.2026 and the same is under challenge in the present writ petition.

4. Learned counsel for the petitioner would submit that the plaintiff is having equal right and title over the suit property along with other defendant, however, the defendants No.2&3 in whose favour the defendant No.1 has executed the gift deed, are going to alienate the property and if during pendency of the suit they alienate the suit property to any third person, it will create multiplicity of litigation and reversion of possession from them would be very difficult. Therefore, the impugned order may be set aside and the respondents may be restrained to alienate the suit property till final adjudication of the suit.
5. I have heard the counsel for the petitioner and perused the material annexed with the petition.
6. From perusal of document it transpires that the defendants are denying the right and title of the plaintiff over the suit property and also stated that she is not in possession of the same. It is also pleaded by the defendants that the defendant No.1 has obtained the suit property from his father through registered will deed dated 08.02.2001 and thus it was his self acquired property and not the ancestral property. Since the suit property is self acquired property of defendant No.1, he executed a gift deed in favour of defendants No.2&3 and in that scenario the plaintiff does not have any right or title over the suit property. It further transpires that earlier also the plaintiff's application under Order 39 Rule 1&2 CPC has been rejected by the trial court which has been upheld by the appellate court. Thereafter, the plaintiff again moved her application for grant of interim injunction with respect to alienation of

suit property. The trial court after due consideration of the material produced before it found that there is no prima facie case in favour of plaintiff and balance of convenience and irreparable loss is also not in her favour and rejected her application. The appellate court has affirmed the said findings and dismissed the appeal filed by the plaintiff. It is also observed by the appellate court that if any alienation is being made by the respondents, the principle of lis pendense would be applicable and no order for specific restraintment of alienation of property is required to be passed.

7. While considering the matter related to application under Order 39 Rule 1&2 CPC, the scope for consideration has been discussed in the cases of ***Estralla Rubber Vs. Dass Estate (P) Ltd., 2001(8)SCC97, Garment Craft Vs. Prakash Chand Goel, 2022 SCC Online SC 29*** and ***Puri Investment Vs. Young Friends & Co. 2022 SCC Online SC 283.***
8. Apropos the impugned order, the question of whether to grant, or not to grant, injunctive relief under Order 39 Rule 1&2 CPC, is at all time discretionary. There is no right that inheres, in any party, to interim injunction under Order 39. In ***Wander Ltd. Vs. Antox India P. Ltd.1990 Supp. SCC 727***, in paragraph 13 & 14 the Ho'nble Supreme Court has held as under:

“13. On a consideration of the matter, we are afraid, the Appellate Bench fell into error on own important propositions. The first is a misdirection in regard to the very scope and nature of the appeals before it and the limitations on the powers of the Appellate Court to substitute its own discretion in an appeal preferred against a discretionary order. The second pertains to the infirmities in the ratiocinations as to the quality of Antox's alleged user of the Trade-Mark on which the passing-off action is founded. We shall deal with these two separately.

14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the Appellate Court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate Court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by the court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the Trial Court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in *Printers (Mysore) Private Ltd. v. Pothan Joseph* :

... These principles are well established, but as has been observed by Viscount Simon in *Charles Oseption & Co. v. Johnston* the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case.

The appellate judgment does not seem to defer to this principle.”

9. Even more restricted, therefore, would be the scope of interference by the High Court, in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, with an order passed by the court below under Order 39 Rule 1&2. It is only where the court below has exercised its jurisdiction in a palpably erroneous manner, as would call for correction by the High Court, as a supervisory court, that the High Court would act under Article 227.
10. In the present case, I do not find any palpably erroneous order passed by the trial court as well as appellate court to interfere in the present writ petition. Accordingly, the writ petition fails and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
Judge