



HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 351 of 2026

1 - Animesh Agrawal S/o Late Shri Avadhbihari Agrawal Aged About 48 Years R/o Ward No. 12, Shivaji Chowk, Bus Stand, Rajim, Tehsil Rajim, Distt. Gariyaband, Chhattisgarh.

2 - Chandralata Agrawal Wd/o Late Shri Avadhbihari Agrawal Aged About 67 Years R/o Ward No. 12, Shivaji Chowk, Bus Stand, Rajim, Tehsil Rajim, Distt. Gariyaband, Chhattisgarh. Through General Power Of Attorney Animesh Agrawal, S/o Late Shri Avadhbihari Agrawal.

3 - Smt. Shyama Agrawal Wd/o Late Shri Rajesh Agrawal Aged About 43 Years R/o Ward No. 12, Shivaji Chowk, Bus Stand, Rajim, Tehsil Rajim, Distt. Gariyaband, Chhattisgarh. Through General Power Of Attorney Animesh Agrawal, S/o Late Shri Avadhbihari Agrawal.

4 - Kumari Niharika D/o Late Shri Rajesh Agrawal Aged About 21 Years R/o Ward No. 12, Shivaji Chowk, Bus Stand, Rajim, Tehsil Rajim, Distt. Gariyaband, Chhattisgarh. Through General Power Of Attorney Animesh Agrawal, S/o Late Shri Avadhbihari Agrawal,

5 - Minor Naman Agrawal S/o Late Shri Rajesh Agrawal Aged About 8 Years Through Her Legal Representative Mother Smt. Shyama Agrawal, Wd/o Late Shri Rajesh Agrawal Aged About 43 Years, R/o Ward No. 12, Shivaji Chowk, Bus Stand, Rajim, Tehsil Rajim, Distt. Gariyaband, Chhattisgarh., (Plaintiff No. 1 By Himself And Plaintiff

No. 2 To 5 Through General Power Of Attorney Animesh Agrawal S/o Late Shri Avadhbihari Agrawal)

... **Petitioner(s)**

versus

1 - Sanjay Kumar Agrawal S/o Late Shri Trijuginarayan Agrawal Aged About 50 Years R/o House No. 88, Avrethi Para, Near New Bus Stand, Balbhadra Ward Bhatapara, Tehsil Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

2 - Pranadhar Agrawal S/o Late Shri Atmanand Agrawal Aged About 72 Years R/o Agrawal Para Arang, Tehsil Arang, Distt. Raipur, Chhattisgarh.

3 - Minor Kartik Agrawal S/o Shri Rajeev Agrawal Aged About 7 Years Through Guardian Father Shri Rajeev Agrawal, S/o Late Shri Rambihari Agrawal, R/o Near Rest House, Shankar Ward, Bhatapara, Tehsil Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

4 - Minor Vartika Agrawal S/o Shri Rajeev Agrawal Aged About 10 Years Through Guardian Father Shri Rajeev Agrawal, S/o Late Shri Rambihari Agrawal, R/o Near Rest House, Shankar Ward, Bhatapara, Tehsil Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

5 - Minor Lipika Agrawal D/o Shri Rajeev Agrawal Aged About 12 Years Through Guardian Father Shri Rajeev Agrawal, S/o Late Shri Rambihari Agrawal, R/o Near Rest House, Shankar Ward, Bhatapara, Tehsil Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

6 - Minor Bhavya Agrawal D/o Shri Sanjay Bihari Agrawal Aged About 6 Years Through Guardian Father Shri Sanjay Agrawal, S/o Late Shri Rambihari Agrawal, R/o Near Rest House, Shankar Ward, Bhatapara, Tehsil Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

7 - Sanjay Agrawal S/o Late Shri Rambihari Agrawal Aged About 50 Years R/o Near Rest House, Shankar Ward, Bhatapara, Tehsil

Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

8 - Rajeev Agrawal S/o Late Shri Rambihari Agrawal Aged About 48 Years R/o Near Rest House, Shankar Ward, Bhatapara, Tehsil Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

9 - Sandeep Agrawal S/o Late Shri Rambihari Agrawal Aged About 43 Years R/o Near Rest House, Shankar Ward, Bhatapara, Tehsil Bhatapara, Distt. Balodabazar Bhatapara, Chhattisgarh.

10 - Smt. Pratibha Agrawal D/o Late Shri Rambihari Agrawal Aged About 47 Years W/o Shri Rajkumar Agrawal, R/o Near Rest House, Rajim, Tehsil Rajim, Distt. Gariyaband, Chhattisgarh.

11 - Smt. Pratima Agrawal D/o Late Shri Rambihari Agrawal Aged About 45 Years W/o Shri Ajay Agrawal, R/o Baniyapara, Purani Basti, Raipur, Tehsil And Distt. Raipur, Chhattisgarh.

12 - State Of Chhattisgarh Through Collector, Balodabazar Bhatapara, Chhattisgarh.

... Respondent(s)

Order Sheet

02/04/2026	Mr. Abhijeet Mishra, learned counsel for the petitioners. Mr. Ratnesh Agrawal, learned counsel for the Respondent No. 1/caveator. Mr. Ghanshyam Kashyap Govt. Advocate, and Mr. Ashutosh Trivedi, Panel Lawyer, for the Respondent No. 12/state. Heard on admission.

Issue notice to Respondents Nos. 2 to 11 on payment of process fee as per rules.

Also heard on I.A. No. 01/2026, which is an application for grant of interim relief.

Learned counsel for the petitioners would submit that the petitioners are the plaintiffs before the learned trial Court, who are prosecuting a Civil Suit for declaration of title, permanent injunction, declaring the Will deed dated 11-06-2018 as null and void, and also for possession of the suit property if the learned trial Court did not find their possession over the suit land. The suit property belonged to Late Awadh Bihari, whose first wife was Chandralata Agrawal, from whom the other plaintiffs were born. Smt. Pramila Agrawal also claims to be the second wife of Late Awadh Bihari Agrawal. Smt. Pramila Agrawal died issueless on 13-11-2020. Awadh Bihari died on 18-08-2017. After the death of Awadh Bihari, the plaintiffs moved their application for mutation of their names in the revenue records in place of the deceased Awadh Bihari, before the Naib Tahsildar, Bhatapara, in which Pramila Agrawal raised an objection and claimed to be the wife of Awadh Bihari and filed an application for her impleadment in the proceeding. The Naib Tahsildar, vide its order dated 13-12-2017, allowed the application and directed to implead her as the non-applicant. The brother of Awadh

Bihari, namely Rambihari Agrawal, also filed his application for impleading him as the non-applicant, but his application has been dismissed by the Naib Tahsildar. The matter was travelled up to the Commissioner, Raipur, in Revenue Revision, and during the pendency of the revision, Ram Bihari died. After the death of Rambihari, the defendants No. 6 to 11 were substituted in the proceeding. In the meantime, Pramila Agrawal has also died on 13-11-2020. Thereafter, the Respondent No. 1 claimed for substitution of his name on the basis of a Will deed dated 11-06-2018, allegedly executed by Pramila Bai. Though Pramila Bai has no right or title over the property, the Respondent No. 1 is substituted in the proceeding before the Commissioner.

He would also submit that the plaintiffs have challenged the Will deed also in the Civil Suit. After the death of Pramila Agrawal, the defendant No. 1 tried to dispossess the plaintiffs of the suit land, and they also lodged a police report. Then, they filed the Civil Suit. In the Civil Suit, the application of the plaintiffs, filed under Order 39 Rule 1 and 2 of C.P.C., was allowed by the learned trial Court vide its order dated 17-07-2023, in their favour, and the defendants were restrained from interfering with the possession of the plaintiff over the suit property. The present Respondent No. 1, **Sanjay Kumar Agrawal**, who was not a party to the suit, had

filed an appeal before the learned appellate Court and filed certain documents, i.e. an agreement and affidavit, with the effect that he was cultivating the suit property on behalf of Pramila Agrawal and their agreement was from 30-07-2019 to 30-07-2024. The learned trial Court, relying upon the said document submitted by the respondent No. 1, who was neither the party to the suit nor the said documents were filed before the learned trial Court, allowed the appeal filed by him and set aside the order dated 11-07-2023 passed by the learned trial Court.

It is also submitted by him that the impugned order suffers from patent illegality and perversity. The appellate court should not entertain the appeal as the respondent No. 1 was not the party to the suit, and he has no right or title over the property. He is claiming through Pramila Bai, who herself had no right or title over the suit property. The defendant No. 1 has filed his counterclaim in which he admitted a half share of the property in favour of the plaintiffs, but by the order of the learned appellate Court, the defendants are put in possession of the entire property along with the intervenor/respondent No. 1. His right and title of Pramila Bai itself is under dispute and the claim of the respondent No. 1 itself is suspicious. By the impugned order, the plaintiffs would suffer irreparably, and they

would be deprived by their property.

He would further submit that the appellate Court has limited jurisdiction while deciding the appeal against the order passed in the application under Order 39 Rule 1 and 2. In an appeal filed by a stranger, the well-reasoned order passed by the learned trial Court is set aside. Therefore, the effect and operation of the impugned order may be stayed till final adjudication of the present petition. In support of his submission, he would rely upon the judgment of the Hon'ble Supreme Court reported in 1990 Supp. SCC 727 (**Wander Ltd. and Another v. Antox India P. Ltd.**), 2012 (4) SCC 689 (**Esha Ekta Apartments CHS Limited and Others v. Municipal Corporation of Mumbai and Another**), 1997 SCC OnLine MP 83 (**Savitri Devi v. Smt. Manorama Bai Rai and Others**), and Order dated 28-02-2025 passed by Andhra Pradesh High Court, in Civil Miscellaneous Appeal No. 283 of 2024 (**Syed Abdulla and Others v. Shaik Yasin and Others**).

Per contra, learned counsel for the Respondent No. 1, would vehemently oppose the submissions and submits that the plaintiffs are not in possession of the suit property and they themselves claimed possession in the suit. When they are not in possession, no temporary injunction can be granted in their favour. The respondent No. 1 is cultivating the suit property since

2019 on behalf of Pramila Bai under the agreement executed by her. After her death, he became the owner of the suit property by virtue of the Will deed dated 11-06-2018. Despite knowing the fact, the respondent No. 1 had not joined in the Civil Suit filed by the plaintiffs and suppressed the material facts and obtained an interim order of temporary injunction from the learned trial Court, which has been rightly set aside by the appellate Court. He would also submit that the learned trial Court, without hearing the respondent No. 1, passed the order of temporary injunction. By the order passed by the learned trial Court, the respondent No. 1 would suffer irreparable loss, and he is deprived of the property. Chandrakala Bai was not residing with Awadh Bihari, and Pramila Bai was residing with him till his lifetime. She has the right and title over the suit property, and Pramila Bai executed a Will in favour of the respondent No. 1. The balance of convenience is also in his favour. Therefore, the order passed by the learned appellate Court is based on proper appreciation of material produced before it, and the present writ petition is liable to be dismissed.

I have heard learned Counsel for the parties and perused the material annexed with the petition.

From perusal of the copy of the plaint annexed at page No. 71 of the petition, the respondent No. 1,

Sanjay Agrawal, S/o Trijuginarayan Agrawal, was not a party to the suit. In the suit, when the application of Order 39 Rule 1 and 2 of C.P.C. was decided, the respondent No. 1 had not raised any objection. It is only when the order was passed on 17-07-2023, by the learned trial Court, that the respondent No. 1 filed an appeal against the said order with the leave of the appellate Court. In the appeal, the respondent No. 1 filed a copy of the agreement and affidavit executed between himself and Pramila Agrawal, by which cultivation rights are alleged to have been given in his favour. The said documents were not filed before the learned trial Court. In para 12 of its order, the learned appellate Court has considered the agreement and affidavit filed by the respondent No. 1, and also considered the Will deed allegedly executed by Pramila Bai in his favour. The learned appellate Court also found in para 13 of its order that the plaintiff is not in possession of the entire suit land and Pramila Bai executed a Will in favour of respondent No. 1, and therefore, the consideration of irreparable loss is erroneous.

Considering the rival submissions made by the parties, facts and circumstances of the case and also the law laid down by the Hon'ble Supreme Court in the case of **Wander Ltd.** (supra), purely as an interim

measure, the effect and operation of the impugned order dated 10-03-2026 passed by the learned appellate Court, shall remain stayed till the next date of hearing.

List the case immediately after service of notice upon the respondents No. 2 to 11.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Alok