



2026:CGHC:19324



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MA No. 61 of 2026**

Kanwar Shri Buildcon Private Limited, Through Its Director Shri Amit Jeevan, S/o Late Lakhiram Jeevan, Aged About 65 Years, R/o M-7, Rajeev Nagar Raipur, Tehsil And District- Raipur, Chhattisgarh.

... Appellant(s)**versus**

1 - Smt. Asha Bai Jain W/o Late Tarachand Jain Aged About 70 Years R/o Maruti Enclave Tatibandh, Raipur, District- Raipur, Chhattisgarh.

2 - Smt. Versha Parekh W/o Kushal Parekh Aged About 40 Years R/o Main Road Jagdalpur, Tehsil And District- Jagdalpur, Chhattisgarh.

3 - Smt. Nisha Jain W/o Deepak Chand Kothari Aged About 40 Years R/o House No. C/32, Bank Of Baroda, Vivekanand Nagar Behind The Branch, Shailendra Nagar Raipur, Tehsil And District- Raipur, Chhattisgarh.

4 - State Of Chhattisgarh Through The Collector, Durg, District- Durg, Chhattisgarh.

5 - Tehsildar Durg, Tehsil Office Durg, Distt.- Durg, Chhattisgarh.



6 - Office Of Revenue Inspector Kasaridih Beside The Patwari Office
Borsi, Durg, Distt.- Durg, Chhattisgarh.

.... Respondent(s)

(Cause title is taken from CIS)

For Appellant(s)	: Mr. B.P. Singh, Advocate
For Respondent No.1	: Mr. Ankit Singhal, Advocate
For Respondent/ State	: Mr. Santosh Soni, Govt. Advocate

Hon'ble Shri Justice Bibhu Datta Guru

Judgment on Board

27/04/2026

1. Heard learned counsel for the parties.
2. The appellant/ defendant No.1 has preferred the present appeal under Order 43 Rule 1 of the Code of Civil Procedure, 1908, being aggrieved by the order dated 13.03.2026 passed by the learned 5th Additional District & Sessions Judge, Durg (C.G.) in Civil Suit No. 1-A/2026 (Smt. Asha Bai vs. Kanwar Shri Buildcon Pvt. Ltd. & Ors.), whereby the learned trial Court allowed the application filed by the plaintiff under Order 39 Rules 1 & 2 of CPC, seeking temporary injunction in respect of the suit property.
3. The plaintiff/respondent No.1 herein instituted a civil suit against the defendants seeking declaration and permanent injunction in respect of the suit property bearing Khasra No.273/18, admeasuring 0.38 hectare, situated at village Mauza, District Durg. In the said suit, the plaintiff also filed an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure seeking grant of temporary injunction against the defendants.



4. The learned Trial Court, after hearing the parties and upon due consideration of the material available on record, allowed the said application holding that the plaintiff had succeeded in establishing a prima facie case, balance of convenience in her favour, and the likelihood of irreparable loss. Accordingly, till final disposal of the suit, defendant No.1 was restrained from creating any disturbance over the suit land and defendant No.5 – Tahsildar, Tahsil and District Durg, was restrained from undertaking any demarcation or partition proceedings in respect of the suit property. The Trial Court further clarified that the said order was only of an interim nature and would not amount to final adjudication of the rights of the parties, which shall be determined on merits after appreciation of evidence.
5. Aggrieved by the aforesaid order, defendant No.1 has preferred the present appeal.
6. Learned counsel for the appellant/defendant No.1 submits that the learned Trial Court has committed a grave error in passing the impugned order without proper appreciation of the pleadings as well as documentary evidence available on record. He further submits that no prima facie case, balance of convenience, or irreparable loss is made out in favour of the plaintiff so as to warrant grant of temporary injunction. He also contends that the plaintiff has instituted the suit questioning the status/boundary as



prescribed in the sale deed dated 08.09.2021, whereby the present appellant purchased the property from one Varsha Parekh. Learned counsel would contend that by allowing the application of the plaintiff, the learned Trial Court has, in effect, restrained the concerned Tahsildar from carrying out demarcation of the land in question, and such complete prohibition frustrates the very dispute raised by the plaintiff in the civil suit. Hence learned counsel prays that the impugned order granting injunction is wholly erroneous, unsustainable in law, and liable to be set aside.

7. *Per contra*, learned counsel for respondent No.1/plaintiff submits that the plaintiff is the recorded owner and in possession of land bearing Khasra No. 488, situated to the west of the appellant's land. He contends that the appellant has not approached this Court with clean hands, as an earlier suit filed by him was dismissed on account of failure to prove title. He further submits that the chain of sale deeds clearly indicates that the plaintiff's land lies to the west of the appellant's land, and the recital in the sale deed dated 08.09.2021 showing G.E. Road on the western side is incorrect. He also submits that once the status and boundary of the land itself is under dispute, further demarcation of the land cannot be permitted. Learned counsel further contends that permitting demarcation on the basis of such incorrect recital would prejudice the plaintiff's rights, whereas no irreparable loss would be caused to the appellant. Accordingly, it is prayed that the



impugned order granting injunction is just and proper and does not warrant interference.

8. During the course of argument, a specific query was put to learned counsel for the appellant as to whether, in the absence of any demarcation report, the civil suit could be effectively adjudicated, and further, whether any application under Order 26 Rule 9 CPC for appointment of a Commissioner had been filed before the Trial Court. In response, learned counsel submits that no such application has been filed till date; however, he submits that if the present appeal is disposed of with liberty to the appellant to move an appropriate application under Order 26 Rule 9 CPC for demarcation of the land in question, the appellant shall do so before the Trial Court.
9. Having considered the entire facts and circumstances of the case; looking to the aforesaid submission and; particularly considering the fact that no application for demarcation has yet been moved before the Trial Court, the present appeal is disposed of with liberty to the appellant to file an application under Order 26 Rule 9 CPC for demarcation of the land in question. Upon such application being filed, the learned Trial Court shall consider and decide the same by passing a reasoned and speaking order, in accordance with law, on the said application.
10. It is made clear that this Court has not expressed any opinion on the merits of the case. The learned Trial Court shall proceed to



decide the matter independently on its own merits, and shall also
decide the application under Order 26 Rule 9 of CPC, if so filed,
strictly in accordance with law.

11. Accordingly, the instant appeal stands disposed of with the
aforesaid liberty.

Sd/-
(Bibhu Datta Guru)
Judge

\$. Bhilwar