



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 720 of 2025

1 - Shrawan Dewangan S/o Late Shri Ishwar Dewangan, Aged About 53 Years Occupation Business, R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

2 - Gurbari Dewangan D/o Late Shri Ishwar Dewangan, Aged About 45 Years Occupation- Dependent, R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

... Petitioner(s)

versus

1 - Jeedhan Dewangan S/o Late Shri Ishwar Dewangan, Aged About 48 Years Occupation Bussiness, R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

2 - Rohini Dewangan D/o Late Shri Ishwar Dewangan, Aged About 19 Years Occupation Business, R/o Near Beladula Rapta Pool, Raigarh, District Raigarh (C.G.)

3 - State Of Chhattisgarh Through Collector, Raigarh (C.G.)

4 - Keshav Dewangan S/o Late Shri Gopiram Dewangan, Aged About 72 Years Occupation Dependent R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

5 - Hrishikesh Dewangan S/o Late Shri Tenganu Dewangan, Aged About 45 Years Occupation Business R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

6 - Kapil Dewangan S/o Late Shri Madhusudan Dewangan, Aged About 47 Years Occupation Business R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

7 - Balmukund Dewangan S/o Late Shri Madhusudan Dewangan, Aged About 39 Years Occupation Business R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

8 - Anita Dewangan W/o Late Shri Jitendra Dewangan, Aged About 31 Years Occupation Housewife R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

9 - Minor Tilesh Dewangan S/o Late Shri Jitendra Dewangan, Aged About 12 Years Through Their Legal Guardian Mother Anita Dewangan W/o Late Shri Jitendra Dewangan, A/o 31 Years, Occupation Housewife R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

10 - Minor Renuka Dewangan D/o Late Shri Jitendra Dewangan, Aged About 10 Years Through Their Legal Guardian Mother Anita Dewangan W/o Late Shri Jitendra Dewangan, A/o 31 Years, Occupation Housewife R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)

11 - Rajesh Dewangan S/o Late Shri Dilip Dewangan Aged About 35 Years

Occupation Business R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)
12 - Deependra Dewangan S/o Late Shri Dilip Dewangan, Aged About 28 Years Occupation Business R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)
13 - Gajendra Dewangan S/o Late Shri Dilip Dewangan, Aged About 28 Years Occupation Business R/o Village Baikunthpur Darogamuda, Kostapara Kotra Road District Raigarh (C.G.)
14 - Ghasnin Dewangan W/o Late Shri Teras Dewangan, Aged About 48 Years R/o Indira Nagar, Raigarh District Raigarh (C.G.)
15 - Sushila Dewangan W/o Shri Munuram Dewangan, Aged About 44 Years R/o Kotra Road, Raigarh, District Raigarh (C.G.)
16 - Sunita Dewangan W/o Late Shri Dharmendra Dewangan, Aged About 41 Years R/o Kundru Badi Dewangan Para, Bilaspur, District Bilaspur (C.G.)
17 - Malti Dewangan W/o Shri Ghanshyam Dewangan, Aged About 37 Years R/o Behind Post Office, Barchhapara, Champa District Janjgir-Champa (C.G.)
18 - Parwati Dewangan W/o Shri Anil Dewangan, Aged About 33 Years R/o Basant Bihar Dewangan Hotel, Bilaspur District Bilaspur (C.G.)

... Respondent(s)

For Petitioners	:	Shri Rajendra Tripathi, Advocate.
For State	:	Shri Ashutosh Trivedi, Panel Lawyer.
For Respondents 1,2& 4 to 18	:	None appears though served.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J

Order on Board

19.03.2026

1. This petition under Article 227 of the Constitution of India has been filed by the petitioners against the impugned order dated 11.07.2025 passed by 4th Additional District Judge, Raigarh, in Misc. Civil Appeal No.8/2025, whereby the Appeal filed by plaintiff No.1&2 is allowed and temporary injunction is granted in their favour till final adjudication of the civil suit.
2. Facts of the case are that, the petitioners are defendant No.1&2 before the trial court. The respondent No.1 filed a Civil Suit before 3rd Civil Judge (Junior Division), Raigarh vide Civil Suit No.75-A/2024 for partition of suit property and for permanent injunction. In the civil suit,

the plaintiff filed an application under Order 39 Rule 1&2 for grant of temporary injunction. It was pleaded in the plaint that the parties are legal heirs of common ancestor, however, dispute exists between the parties with respect to their respective share of the property for which the plaintiff filed a civil suit for partition of suit property. In the application under Order 39 Rule 1&2, the plaintiff has averred that after death of their ancestor Ishwar Dewangan, the names of parties were mutated in the revenue records and they are in possession of their respective share of the property as per their convenience, however, no formal partition were effected between the parties. On a particular part of the share of the property of the plaintiff admeasuring 61X4=244 sqf.ft., the defendants are raising construction for which he filed a suit for partition and permanent injunction and also filed an application for grant of temporary injunction against the defendants.

3. After hearing the parties, the application filed by the plaintiff was rejected by the trial court vide order dated 23.05.2025 holding that plaintiff does not have any prima facie case, balance of convenience and irreparable loss as the parties are having 1/3rd share of total property and the fact of their mutual partition have been denied by the opposite party. Therefore, no injunction can be granted in favour of the plaintiff. The said order dated 23.05.2025 was challenged by the plaintiff by filing Misc. Appeal under Order 43 Rule 1 CPC before the 4th Additional District Judge, Raigarh, in Misc. Civil Appeal No.8/2025 which came up for hearing on 11.07.2025 and after hearing the parties the appellate court allowed the appeal filed by the plaintiff and granted temporary injunction in his favour restraining the defendants from

raising constructions over the suit property till final adjudication of the case. The said order dated 11.07.2025 is under challenge in the present writ petition by defendants No.1&2.

4. Learned counsel appearing for the petitioners would submit that restraining the defendants from raising construction would cause prejudice to their defence as they are required to construct a shed over the passage measuring 4X61=244 ft. The subject part of the property is a passage through which the defendants used to access their house and in the rainy season the condition of said passage becomes very pathetic and it is very difficult for them to access to their house through said passage. Therefore, they are raising construction and making only a shed over that portion so that there may not be any further damages of their house in rainy season or otherwise. No loss or any harm would be caused to the plaintiff even if the defendants complete the installation of Shed over that passage. On their rightful ownership of the property, the defendants are raising construction of shed. By the order impugned, the construction would become incomplete and cause more hardship to the defendants if it would continue till final adjudication of the case. Therefore, they have challenged the impugned order dated 11.07.2025 and the same is liable to be set aside.
5. I have heard the counsel for the petitioners and perused the material annexed with the petition.
6. From perusal of the application as well as order passed by the trial court it reveals that dispute exists between the parties with respect to their ancestral property as they belong to common ancestor. They are

litigating for respective share of the property and for partition of the same. The defendants No.1&2 have not disputed that they are raising construction over 4x61 ft. of land which were objected by the plaintiff as they denied mutual partition between the parties and they are also claiming partition of the property. It further transpires that there exists a serious factual dispute between the parties with respect to earlier mutual partition, their possession over the property in respective share, the condition of their respective houses and shares allotted to the parties of the suit property. When mutual partition of the property has already been disputed by the plaintiff, looking to dispute between the parties with respect to subject property, their possession over the property and also the claim of the parties, the consideration of trial court appears to be just and proper which is based on due appreciation of material available on record.

7. In case of ***Garment Craft Vs. Prakash Chand Goel, 2022(4)SCC 181***, the Hon'ble Supreme Court has considered the scope of interference under the jurisdiction of Article 227 of the Constitution of India. In paragraph 15 & 16 it has been held as under:

“15. Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic

that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

16. Explaining the scope of jurisdiction under Article 227, this Court in *Estralla Rubber v. Dass Estate (P) Ltd.* has observed:-

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

8. Having considered the submissions made by the counsel for the petitioners and also from perusal of record, I do not find any illegality or perversity in the impugned order passed by the appellate court.
9. The writ petition fails and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
Judge