



2026:CGHC:13722

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MA No. 196 of 2025**

Durai Swamy S/o Late Ratna Swamy Aged About 73 Years Present R/o Village Kotni Tehsil And District- Durg (C.G.) Permanent R/o House No. 88/1 Kuntatrayavalam, Tehsil Annur, District- Coimbatore (Tamil Nadu) (Wrongly Mentioned As Durai Swami In Lower Court Cause Title) (Flaintiff)

... Appellant**versus**

1 - Anita Devi W/o Satyabir Singh Rajput Aged About 54 Years R/o H.N. 08, Ward No. 37, Ganjpara, Tehsil And District - Durg (C.G.) (Defendants)

2 - Sumit Kukreja S/o Chander J. Kukreja Aged About 30 Years R/o Gurunanak Nagar, Behind Malwa Hotel Tehsil And District - Durg (C.G.) (Due To Inadvertence Fathers Name And Age Has Not Been Mentioned In Lower Court Cause Title)

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

... Respondent(s)

***(Cause title taken from CIS)***

For Appellant	: Shri Sandeep Patel, Advocate.
For Respondent No. 1	: Shri Priyanshu Gupta, Advocate.
For Respondent No. 2.	: Shri Anup Majumdar, Advocate
For Respondent No. 3	: Shri Santosh Soni, Govt. Advocate

Hon'ble Shri Bibhu Datta Guru, Judge**Judgment on Board****23.03.2026**

1. The appellant/plaintiff has preferred the present appeal under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908, being aggrieved by the order dated 19.09.2025 passed by the learned Seventh Additional District Judge, Durg (C.G.) in Civil Suit No. 32A/2025 (Durai Swamy v. Smt. Anita Devi and Others), whereby the learned trial Court rejected the application filed by the appellant/plaintiff under Order 39 Rules 1 and 2 CPC seeking grant of ad-interim injunction.
2. (a) The Appellant/Plaintiff filed a Civil Suit for declaration and permanent injunction, asserting his ownership and possession over the suit property. It was pleaded that in the year 2011, due to financial need, the Plaintiff entered into an agreement to sell the suit property with Chander J. Kukreja, father of Defendant No.2, for a total consideration of



₹31,39,000/-. Out of the said amount, a sum of ₹4,00,000/- was paid in installments; however, thereafter no further payment was made. In May 2012, the said Chander J. Kukreja expressed his inability to complete the transaction, and consequently, the Plaintiff refunded the entire amount of ₹4,00,000/- to him.

(b) The Plaintiff, being a permanent resident of Tamil Nadu and having limited education, was induced to execute a Power of Attorney dated 14.05.2012 in favour of Defendant No.2 on the pretext that he would look after the property in the Plaintiff's absence. The Plaintiff, being unaware of Hindi language and the contents of the document, executed the same in good faith. It was only in February 2025 that the Plaintiff came to know that Defendant No.2 had misused the said Power of Attorney and executed a sale deed dated 28.01.2025 in favour of Defendant No.1, Anita Devi, thereby illegally transferring the suit property.

3. (I) The defendants No. 1 and 2 have filed their reply to the application under Order 39 Rule 1 & 2 CPC and denied the contents of the said application. The defendants stated that the plaintiff had executed an agreement to sell dated



14.05.2012 in favour of defendant No. 2 with respect to the suit land bearing Khasra Nos. 343 and 348, admeasuring 0.490 hectares, for a total consideration of ₹31,00,000/-, after receiving the entire sale consideration in cash in the presence of two witnesses. The said agreement, duly signed by the parties and witnesses, has been deliberately suppressed by the plaintiff. It is further averred that the plaintiff had handed over possession of the suit land to defendant No. 2 on the same day and also executed a registered power of attorney in his favour, which remained unchallenged for about 13 years. The plaintiff has not disputed the said power of attorney in the present suit.

(II) The defendants contend that no fraud or misrepresentation was committed; rather, the present suit has been filed by the plaintiff with an intention to extract more money. It is also stated that the plaintiff was fully aware of the subsequent sale in favour of defendant No. 1 and had even facilitated the same. Further, it is submitted that the plaintiff has not produced any document to establish possession, whereas defendant No. 2 has been in continuous possession since 2012 and cultivating the land. The sale deed dated



28.01.2025 in favour of defendant No. 1 was executed lawfully through the registered power of attorney, and since then defendant No. 1 is in possession.

4. (i) The learned Trial Court, vide order dated 19.09.2025, rejected the application filed by the Plaintiff under Order 39 Rule 1 and 2 CPC, holding that it is undisputed that the suit land situated at Mouza Kotni stands recorded in the name of the Plaintiff in the revenue records. It was also not disputed that the Plaintiff had entered into an agreement to sell the suit property in the year 2011 in favour of the father of Defendant No.2 due to financial need. However same has not been materialized.

(ii) Upon perusal of the record, the Trial Court observed that subsequently the Plaintiff had executed a Power of Attorney in favour of Defendant No.2, authorizing him to deal with and transfer the suit property. The Court further noted that the registered sale deed dated 28.01.2025 was executed by Defendant No.2 as Power of Attorney holder in favour of Defendant No.1. The plea of fraud, misrepresentation, and non-receipt of consideration raised by the Plaintiff was held to be a matter of evidence to be adjudicated during trial.



(iii)The Trial Court further found that although the Plaintiff claimed to be in possession and cultivating the land, no documentary evidence was produced to substantiate such possession or agricultural income. On the contrary, the document placed on record indicated that possession of the land had been handed over to Defendant No.2. Therefore, the Court held that no prima facie case was made out in favour of the Plaintiff. The Court further held that the balance of convenience and irreparable loss were not in favour of the Plaintiff. Accordingly, the Trial Court concluded that the Plaintiff failed to satisfy the requirements for grant of temporary injunction under Order 39 Rule 1 and 2 CPC, and therefore, the application was rejected.

5. (A) Learned counsel for the appellant submits that the learned Trial Court has failed to appreciate the pleadings and documents on record in their proper perspective. It is contended that the Plaintiff had merely entered into an agreement to sell with the father of Defendant No.02, which never culminated into a sale deed due to non-payment of consideration. Despite specific denial by the Plaintiff, the Defendants have not placed any document on record to



substantiate payment of ₹31,00,000/-, which makes their case inherently improbable.

(B) It is further submitted that a clear prima facie case exists in favour of the Plaintiff, the balance of convenience also lies in his favour, and in the event third party rights are created over the suit property, the Plaintiff would suffer irreparable loss. It is argued that in absence of a registered sale deed, no right, title, or interest could have accrued in favour of Defendant No.02, and consequently, the subsequent sale in favour of Defendant No.01 is prima facie unsustainable.

(C) Learned counsel further submits that the Plaintiff continues to be in possession of the suit property, which is evident even from the documents relied upon by the Defendants themselves. It is also contended that the alleged execution of sale deed after an inordinate delay of about 13 years from the date of Power of Attorney raises serious suspicion and supports the case of misuse and fraud.

(D) It is also submitted that the learned Trial Court, while earlier rejecting the application under Order VII Rule 11 CPC, had observed that in absence of payment of consideration, the alleged sale would be void under Section 54 of the



Transfer of Property Act. Having recorded such a finding, the Trial Court could not have taken a contrary view while deciding the application for injunction. Thus, it is submitted that the impugned order is illegal, perverse, and contrary to settled principles of law, and the same deserves to be set aside.

6. Learned counsel for the Respondents opposes the appeal and supports the impugned order, submitting that the Plaintiff had duly executed the Power of Attorney and sale transaction after receiving full consideration, and possession was also handed over. It is contended that the subsequent sale deed executed by Defendant No.02 in favour of Defendant No.01 is valid, and the allegations of fraud are false and belated. It is thus submitted that no prima facie case is made out and the application for temporary injunction has rightly been rejected.
7. I have heard learned counsel for the parties and perused the records with utmost circumspection.
8. Having heard learned counsel for the parties and on perusal of the record, this Court finds no illegality or perversity in the impugned order passed by the learned Trial Court. The Trial Court has, upon proper appreciation of the material available



on record, rightly held that the Plaintiff has failed to establish a prima facie case, as no cogent document has been filed to substantiate his possession over the suit property, whereas the documents on record indicate otherwise.

9. Further, from the perusal of the registered sale deed dated 28.01.2025 executed by the Power of Attorney holder of plaintiff in favour of the defendant No. 1, it is evident that the vendor, acting through Power of Attorney, has categorically acknowledged receipt of full sale consideration which are reflected from the details of cheque Numbers mentioned in sale deed itself and has transferred the suit property along with possession in favour of Defendant No.1, and has also relinquished all future claims over the property. Such recitals carry a presumption of correctness at this stage. The plea of fraud, misuse of Power of Attorney, and non-receipt of consideration involves disputed questions of fact, which can only be adjudicated upon after full-fledged trial. Even the learned trial Court also observed that the plaintiff failed to prove his possession over the suit property, hence the balance of convenience not lies in favour of plaintiff. The findings regarding absence of prima facie case, balance of



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convenience, and irreparable injury being against the Plaintiff
are based on sound reasoning and do not call for
interference.

10. In view of the above, no illegality or perversity is found in the
impugned order dated 19.09.2025 passed by the learned trial
Court. Consequently, the present appeal is dismissed, and the
order of the learned trial Court is hereby affirmed.

Sd/-

(Bibhu Datta Guru)
Judge

Shoaib/Gowri