

(2018) 09 CHH CK 0454

Chhattisgarh High Court

Case No: Writ Petition (227) No. 840 Of 2018

Laxmi Bai And Ors

APPELLANT

Vs

State Of Chhattigarh And Ors

RESPONDENT

Date of Decision: Sept. 27, 2018

Acts Referred:

- Constitution Of India, 1950 - Article 227

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Krishna Kumar Dixit, Arun Sao

Final Decision: Dismissed

Judgement

Sanjay K. Agrawal, J

1. The petitioners / plaintiffs have filed a suit for declaration that the partition order passed by the Tahsildar is null and void and also sought temporary

injunction during the pendency of the suit by filing an application under Order 39 Rule 1 and 2 of CPC which was rejected by the trial Court finding

that no prima facie case or balance of convenience lies in favour of the plaintiffs and no irreparable loss would be caused to the plaintiffs if temporary

injunction is not granted which has been affirmed by the Appellate Court against which this writ petition has been preferred.

2. Learned counsel for the petitioners submits that the finding recorded by the two Courts below is perverse and contrary to record.

3. I have heard learned counsel for the petitioners.

4. Both the Courts below have concurrently found that there is no prima facie case or balance of convenience and that no irreparable loss would be

caused to the plaintiffs if temporary injunction is not granted which is a finding of fact based on material available on record in which I do not find any perversity or illegality warranting interference under Article 227 of the Constitution of India. However, as the suit is pending consideration since 19.05.2017 it would be expedient to direct the trial Court to decide the suit within four months from the date of receipt of copy of this order.

5. Accordingly, the writ petition deserves to be and is hereby dismissed. No cost(s).