

**(2018) 02 CHH CK 0180**

**Chhattisgarh High Court**

**Case No:** WP227 No. 904 Of 2017

Kanti Bai And Ors

APPELLANT

Vs

Santosh Kumar And Ors

RESPONDENT

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**Date of Decision:** Feb. 8, 2018

**Acts Referred:**

- Code Of Civil Procedure, 1908 - Order 39 Rule 1, Order 39 Rule 2
- Constitution Of India, 1950 - Article 227

**Hon'ble Judges:** Goutam Bhaduri, J

**Bench:** Single Bench

**Advocate:** A.P. Sharma, Sanjay Patel, S.K. Guha, S.K. Mishra

**Final Decision:** Dismissed

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### **Judgement**

Goutam Bhaduri, J

1. Heard.

2. The instant petition is against the order dated 10.10.2017, whereby the appellate Court has passed an order directing the defendants not to

interfere in the possession of the land held by the plaintiff bearing Khasra No.634/2.

3. Perusal of the entire appellate Court's order would show that initially an application filed under Order 39 Rule 1 & 2 CPC was rejected, which was

subject of appeal before the appellate Court. The appellate Court by its order which is under challenge has observed that certain parts of the property

have been purchased by the plaintiffs and the possession prima facie found to be in favour of the plaintiffs. Since the suit is pending for declaration,

permanent injunction and possession, at this stage in exercise of powers vested under Article 227 of the Constitution of India, I am not inclined to

interfere with such order as I do not find any illegality in the order, which can be said that the Court has exceeded its jurisdiction vested under the law.

4. Accordingly, the petition is dismissed. However, the petitioners shall be at liberty to raise all the defense before the Court below.