

(2023) 01 CHH CK 0019
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 12 Of 2023

Daya Ram Patel

APPELLANT

Vs

Ramkishor Patel

RESPONDENT

Date of Decision : 13-01-2023

Acts Referred:

Code Of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2

Citation : (2023) 01 CHH CK 0019

Hon'ble Judges : Deepak Kumar Tiwari, J

Bench : Single Bench

Advocate : Kishore Bharat, GVK Rao, Sudhir Sahu

Final Decision : Disposed Of

Judgement

1. This Petition is directed against the order dated 29.10.2022 passed by the Additional District Judge, Pendra Road, District Bilaspur in Misc. Civil Appeal No.19/2022 whereby, the temporary injunction granted under Order 39 Rules 1 & 2 CPC for alienation of the suit property has been vacated and extension has not been permitted.

2. Learned Counsel for the Petitioners submits that the Petitioner/ Plaintiffs have filed a suit for declaration and possession in which, an application under Order 39 Rules 1 & 2 CPC has also been filed, which has also been allowed and time to time, extension has been given, however, the trial Court has not extended the time period thereafter though the trial has not been concluded, which was also upheld by the impugned order. He further submits that the order impugned is not sustainable, therefore, the same may be quashed.

3. Shri Sahu, learned State Counsel submits that State is a formal party and Shri Rao supports the order impugned.

4. Heard learned Counsel for the parties and perused the documents annexed with the Petition.

5. In *Patnam Shakuntala vs. Giridhar Mulhji Chavda* reported in (2005) 11 SCC 497, it has been categorically observed that the High Court erred in exercising the discretion in vacating the injunction already granted and the result would be that third party interest would be created and the litigation will prolong.

6. Considering the principle laid down in the matter of *Patnam Shakuntala vs. Giridhar Mulhji Chavda* (supra), this Court directs the parties to maintain the status quo with regard to the property in question until the decision of the suit and the said property shall not be alienated.

7. With the aforesaid observation, the Petition stands disposed of.