



2026:CGHC:15688

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Judgment reserved on 30-03-2026****Judgment delivered on 07-04-2026****MA No. 155 of 2025**

1. Nirmal Kumar Samuel (Dead)
- 2 . Smt. Jyotsna Lall, W/o Colonel J.J. Lall, Aged About 66 Years R/o 12/738, Jarhabhata, Behind Delhi Battery (Now Demolished) (Wrongly Mentioned As Behind Empty Space Battery), Tehsil And District Bilaspur, Chhattisgarh.
- 3 . Nitesh Kumar Samuel, S/o Nirmal Kumar Samuel Aged About 59 Years R/o 10/882, Dasgali, Mother Teresa Ward No. 10, Manjhavapara, Jarhabhata, Bilaspur, Chhattisgarh.

... Appellant(s)**versus**

1. Atul Kumar Shukla S/o Sudama Shukla, Aged About 52 Years R/o Jarhabhata, Green Park Colony, Tehsil And District Bilaspur, Chhattisgarh.
- 2 . Nalin Kumar Samuel, S/o Nirmal Kumar Samuel, Aged About 68 Years R/o 10/882, Dasgali Mother Teresa Ward No. 10, Manjhavapara, Jarhabhata, Bilaspur, Chhattisgarh.
3. Sub Registrar, Registration Office, District Bilaspur, Chhattisgarh.
4. State Of Chhattisgarh Through District Magistrate, Bilaspur, Chhattisgarh.

... Respondent(s)

For Appellant(s)	:	Mr. Abhishek Sinha, Senior Advocate along with Mr. Aditya Pandey, Advocate
For Respondent No. 1	:	Mr. Vivek Ranjan Tiwari, Senior Advocate along with Mr. Hemant Kesharwani, Advocate
For Respondent No. 2	:	Mr. Vaibhav Goverdhan, Advocate
For Respondent No. 4/ State	:	Mr. Lekhram Dhruv, P.L.

Hon'ble Shri Bibhu Datta Guru, Judge

C A V Judgment

1. The appellants/plaintiffs have preferred the present appeal under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908, being aggrieved by the order dated 05.07.2025 passed by the learned 2nd Additional District Judge, Bilaspur (C.G.) in Civil Suit (A) No. 114/2025 (Nirmal Kumar Samuel & Ors. Vs. Atul Kumar Shukla & Ors.) whereby the learned trial Court rejected the application filed by the appellants/plaintiffs under Order 39 Rules 1 & 2 r/w Section 151 of CPC.
2. The plaintiffs/appellants have instituted a civil suit against the defendants/respondents seeking declaration, permanent injunction and cancellation of the sale deed in respect of Nazul land bearing Sheet No. 05, Plot No. 34/6, admeasuring 6932 sq. ft., situated at Mouza Jarhabhatha, Nazul R.N.M. Bilaspur, Tahsil and District Bilaspur, within the limits of Municipal Corporation Bilaspur, Ward No. 12 (Mother Teresa

Nagar), near Rajiv Gandhi Chowk towards the New Tifra Bridge and abutting the main road (hereinafter referred to as 'the *suit property*'). According to the plaint, the suit property is the self-acquired property of plaintiff No.1 (now dead), who was nonagenarian and was suffering from serious visual impairment.

3. It is the case of the plaintiffs that deceased plaintiff No.1 had orally partitioned the suit property amongst his children plaintiff Nos.2 & 3 and defendant No.2, pursuant to which each of them came into possession of their respective portions. As per the map annexed with the plaint (Schedule "A"), the entire property is shown within the boundaries marked as अ.ब.स.द. It is further pleaded that on the west side of the property adjoining the main road four shops have been constructed, while towards the east side there exists a residential house and open land in the middle portion. According to the plaintiffs, under the said oral arrangement, plaintiff No.2 was allotted the portion marked अ ब. ई. फ consisting of a residential house and some open land admeasuring about 3215 sq. ft. Plaintiff No.3 was allotted the portion marked य.फ.र.द consisting of two constructed shops along with open land admeasuring about 1650 sq. ft., situated towards the southern side adjoining a lane. The portion marked ई. य. स. र consisting of shops and open land admeasuring about 1600 sq. ft. was allotted to defendant

No.2. It is pleaded that although the parties are in possession of their respective portions in accordance with the oral partition, the revenue records continue to stand in the name of deceased plaintiff No.1 as the partition was not formally recorded. The plaintiffs have further pleaded that plaintiff No.1 had executed a gift deed dated 23.01.2018 in favour of defendant No.2 in respect of his portion, however the same could not be registered on that date and subsequently the registration could not be completed due to the illness of plaintiff No.1 and owing to outbreak of COVID-19 Pandemic situation. It is also stated that the portions of plaintiff No.3 and defendant No.2 are situated on the western side abutting the main road and are commercial in nature having four shops, whereas the portion allotted to plaintiff No.2 is situated towards the rear side and opens towards a narrow lane, therefore a comparatively larger area was allotted to plaintiff No.2 to balance the valuation of the respective portions. The plaintiffs further averred that, defendant No.2, without their knowledge, executed a sale deed dated 18.06.2021 in favour of defendant No.1 in respect of the land admeasuring 1500 sq. ft. (approx.) along with two shops situated on the main road. It is alleged that taking advantage of the advanced age of plaintiff No.1 and the fact that his name continued to remain in the revenue records, the defendants obtained his signatures during the Covid period and got the sale deed

registered by hatching a conspiracy and fraud showing incorrect particulars of the land. According to the plaintiffs, defendant No.2 had no authority to sell the disputed property and the said sale deed is illegal, void and not binding upon them. It is further pleaded that the market value of the property is more than Rs.4,00,00,000/-, whereas the sale consideration mentioned in the sale deed is only Rs.65,00,000/-, which also indicates that the transaction is fraudulent.

4. The plaintiffs have further stated that they came to know about the alleged fraudulent sale deed only on 22.08.2022 after being threatened by defendant No.1 to vacate the property, whereupon they obtained a certified copy of the sale deed and lodged a report with the police. It is also alleged that on the intervening night of 29th/30th November, 2022 certain persons attempted to demolish the shop situated on the portion in possession of plaintiff No.3 with the help of a JCB machine. Apprehending interference with their peaceful possession and possible dispossession, the plaintiffs have filed the suit seeking declaration that the impugned sale deed is void and not binding upon them; its cancellation; and a decree of permanent injunction restraining the defendants from interfering with their peaceful possession over the suit property. Along with the plaint, they also filed an application under Order 39 Rule 1 & 2 read with Section 151 of the CPC

seeking temporary injunction.

5. Defendant No.1 filed his written statement in respect of the plaint and also filed his reply to the application under Order 39 Rule 1 & 2 of the CPC. He denied the averments made by the plaintiffs in the application and contended that the suit property was lawfully purchased by him through a registered sale deed dated 18.06.2021 after payment of the entire sale consideration. It is pleaded that the property earlier belonged to the deceased namely; Nirmal Kumar Samuel (plaintiff No.1), who executed the said sale deed in favour of defendant No.1 of his own free will and in a sound state of mind after receiving the full sale consideration. According to the defendant No.1, neither the plaintiffs nor defendant No.2 have any right, title or interest over the suit property. It is further contended that plaintiff No.1 himself executed the sale deed in favour of defendant No.1 after receiving the entire consideration amount. It is also stated that plaintiff No.1 had personally appeared before the Nazul Officer and submitted an affidavit supporting the execution of the sale deed. The defendant further submits that upon the complaint made by the plaintiffs, the police conducted an inquiry and found no irregularity in the sale transaction, therefore no action was taken. Defendant No.1 has further pleaded that he is the lawful owner and in possession of the suit property by virtue of the registered sale deed. It is submitted that the plaintiffs, in

collusion with defendant No.2 and out of greed, have filed the present false and baseless suit. According to the defendant No.1, since the suit property has been purchased through a registered sale deed, the balance of convenience lies in his favour and hence, it is prayed that the application filed by the plaintiffs be dismissed with costs.

6. Defendant No.2 remained *ex parte*. He has neither filed written statement to the plaint nor reply to the application under Order 39 Rule 1 & 2 of the CPC.
7. The trial Court, after hearing the parties and perusing the material available on record, proceeded to consider the application filed by the plaintiffs under Order 39 Rules 1 and 2 of the Code of Civil Procedure. While examining the material placed on record, the trial Court noted that the appellants had filed a copy of the registered sale deed dated 18.06.2021 along with copies of the maintenance Khasra for the years 2011–12, 2012–13, 2013–14 and 2014–15. From the said Khasra entries, the suit land bearing Sheet No.05, Plot No.34/6, admeasuring 6932 sq. ft., was shown to be recorded in the name of plaintiff No.1, Nirmal Kumar. The trial Court further observed that from the perusal of the registered sale deed dated 18.06.2021, it appears that plaintiff No.1 had executed the said sale deed in favour of defendant No.1 in respect of Nazul land bearing Sheet No.05, Plot No.34/6 admeasuring 644.237 square meters. The trial Court also

observed that defendant No.2 is the son of the plaintiff No.1 and that the plaintiffs had not specifically pleaded that the sale deed was executed in favour of defendant No.1 without the knowledge of plaintiff No.1. On the contrary, it appeared that the sale deed had been executed after payment of sale consideration of Rs.65,00,000/- by defendant No.1. In such circumstances, the trial Court held that the existence of a *prima facie* case in favour of the plaintiffs was not established. The trial Court further observed that defendant No.1 had paid the sale consideration of Rs.65,00,000/- and thereafter he had obtained a registered sale deed in his favour. It was also noted that the plaintiffs had not specifically pleaded that the said sale consideration had not been received by them. In view of the said circumstances, the trial Court held that the balance of convenience did not lie in favour of the plaintiffs. The trial Court also held that since the plaintiffs failed to establish the existence of a *prima facie* case and the balance of convenience in their favour, it cannot be said that the plaintiffs would suffer irreparable loss if the temporary injunction was not granted in their favour. On the contrary, the Court observed that defendant No.1 had already paid the sale consideration for the property and therefore the plea of irreparable injury was also not made out. Accordingly, the trial Court concluded that none of the essential ingredients required for grant of temporary injunction were established in

favour of the plaintiffs and therefore the application filed under Order 39 Rules 1 and 2 CPC was rejected. Thus, this appeal.

8. (a) Learned Senior Counsel appearing for the appellants submits that the learned Trial Court has failed to properly appreciate the facts and circumstances of the case and has erroneously passed the impugned order, which is not sustainable in the eyes of law. It is contended that the plaintiffs have specifically challenged the execution and genuineness of the sale deed dated 18.06.2021 and have pleaded that they continue to remain in possession of their respective portions of the suit property, wherein they have constructed houses and shops. Despite such pleadings, the Trial Court failed to take into consideration that the appellants are in settled possession of the respective portions of the suit property and are entitled to protection of their possession till the final adjudication of the suit. It is further submitted that although defendant No.1 claims to have purchased the property through the sale deed dated 18.06.2021, the possession of the property has never been delivered to him and the plaintiffs continue to remain in possession of their respective shares. Learned counsel submits that the said sale deed was executed only to the extent of the share of defendant No.2 and not with respect to the entire suit property, and therefore defendant No.1 cannot claim rights over the whole property.

(b) It is also contended that till December, 2022 defendant No.1 never interfered with the possession of the plaintiffs; however, after getting his name recorded in the revenue records, he started interfering with their possession, which prima facie raises suspicion regarding the circumstances under which the sale deed was executed in his favour.

(c) Learned counsel further submits that plaintiff No.1 had originally purchased the property in the year 1977 and thereafter, in the year 1998, the property was orally partitioned amongst the family members and separate shares were allotted to plaintiff Nos.2 & 3 and defendant No.2. Pursuant to the said oral partition, plaintiff No.2 constructed a residential house over her share in the year 2000 and has been residing there along with her family since then, whereas plaintiff No.3 has constructed house and shops over his share and continues to remain in possession thereof. It is further argued that plaintiff Nos.2 and 3 have invested substantial amounts in raising construction over their respective portions after the oral partition and have been in continuous and peaceful possession of the same.

(d) Learned counsel also raised doubts regarding the genuineness of the sale deed dated 18.06.2021 and questioned the alleged payment of sale consideration, contending that there is no clear material to show that the

consideration amount was actually received by plaintiff No.1. On these grounds, it is submitted that the appellants have been able to establish a strong *prima facie* case in their favour and that the balance of convenience as well as the likelihood of irreparable loss are also in their favour. Therefore, according to the learned counsel, the learned Trial Court ought to have protected their possession by granting temporary injunction, and hence the impugned order rejecting the application under Order 39 Rules 1 and 2 CPC deserves to be set aside.

(d) Learned Senior Counsel, further to buttress his submissions, has placed reliance in the case of **Rame Gowda (dead) by LRs Vs. M. Varadappa Naidy (dead) through LRs reported in (2004) 1 SCC 769, Dalpat Kumar And Anr. Vs. Prahlad Singh and Ors. reported in (1992) 1 SCC 719 and Krishna Ram Mahale (dead) by LRs Vs. Shobha Venkat Rao reported in (1989) 4 SCC 131.**

9. *Per contra*, learned Senior counsel appearing for respondent No.1 supports the impugned order and submits that the appellants have failed to establish a *prima facie* case before the trial Court. It is contended that the documents filed by the appellants themselves are contrary to their pleadings and therefore no relief of temporary injunction could have been granted in their favour. It is further submitted that during the

life time the appellant No.1 had executed a registered sale deed dated 18.06.2021 in favour of respondent No.1 and the execution of the said document, including his signatures and presence at the time of execution, has not been specifically denied in the civil suit by the plaintiffs. Learned counsel submits that a registered sale deed carries a presumption of genuineness and validity and therefore the transaction cannot be lightly disputed. It is also contended that in view of Section 92 of the Indian Evidence Act, oral evidence cannot be led to contradict the terms of a registered sale deed. According to the defendant/respondent No.1, the deceased plaintiff No.1 executed sale deed in his favour and thereafter he had also filed an affidavit under Order 18 Rule 4 of the Code of Civil Procedure in the mutation proceeding, on the basis of which the name of respondent No.1 has been duly recorded in the revenue records. The said fact has also been pleaded in his return. It is argued that the pleadings of the appellants are themselves inconsistent inasmuch as in the civil suit they have pleaded an oral partition without specifying any date, whereas in the memorandum of appeal it has been alleged that a partition deed was executed on 23.01.2018. Learned counsel for respondent No.1 further submits that in the plaint it has been pleaded that the suit property had already been partitioned among plaintiff Nos.2 and 3 and defendant No.2; however, despite such pleading, plaintiff

No.1 has sought relief of declaration and injunction in respect of the entire property in his favour, which is contrary to the pleadings and therefore such relief cannot be granted. Hence, it is submitted that the trial Court has rightly rejected the application for temporary injunction and the present appeal being devoid of merit deserves to be dismissed.

10. Learned counsel for respondent No. 2/defendant No.2 has filed reply and fully supported the case of the appellants. He submits that his father i.e. plaintiff No. 1 (deceased), had orally partitioned the suit property among his children, i.e., plaintiffs Nos. 2 and 3 and the defendant No.2, and had handed over possession of their respective shares to each of them. Learned counsel submits that the said oral partition was subsequently reduced into writing and a memorandum of partition was executed on 23.01.2018, and since then the parties have been in peaceful possession of their respective portions and have also made constructions thereon. Learned counsel further submits that the Respondent No.2 had approached his father, Appellant No. 1, with the intention of selling only his share of the property measuring about 1500 sq. ft. to Respondent No. 1, and accordingly only his share was sold by way of a registered sale deed dated 04.06.2021, which was registered on 18.06.2021. It is also submitted that the possession of the property has not been delivered to

Respondent No. 1 and he and his siblings are still in continuous possession of their respective shares. It is thus submitted that in view of the aforesaid facts, a *prima facie* case is made out in favour of the appellants and the balance of convenience also lies in their favour. Learned counsel submits that Respondent No. 1 is trying to dispossess the appellants and, therefore, if injunction is not granted, the appellants shall suffer irreparable loss and injury.

11. I have heard learned counsel for the parties and perused the documents annexed herein.
12. A bare perusal of the record reveals that the plaintiffs had instituted the suit seeking declaration, permanent injunction and cancellation of the sale deed, and had also filed an application for grant of temporary injunction. The record further shows that notices were issued to the defendants. Even defendant No.1 was served through paper publication. Defendant No.2 remained *ex parte*.
13. It is also evident from the record that plaintiff No.2 Smt. Jyotsna Lal had lodged a complaint dated 26.01.2023 at Civil Lines Police Station alleging that defendant No.1 had caused damage to the suit property, and certain photographs depicting such damage were also placed on record. Considering the affidavit and documents filed by the plaintiffs

and taking into account the provisions of Order 39 Rule 3 of the Code of Civil Procedure, the learned Trial Court, in order to prevent the ends of justice from being defeated, deemed it appropriate to direct both the parties to maintain *status quo* over the suit property described in Schedule-A of the plaint till the next date of hearing or until further orders, by order dated 30.01.2023 (Annexure-A/7). Thereafter, the case was listed for filing of the written statement, and upon completion of pleadings, the learned Trial Court proceeded to consider the application filed under Order 39 Rules 1 and 2 CPC. Subsequently, by impugned order dated 05.07.2026, the said application was rejected on the ground that none of the essential ingredients required for grant of temporary injunction, namely *prima facie* case, balance of convenience and likelihood of irreparable injury, were found to be established in favour of the plaintiffs.

14. It is noteworthy to mention here that during the course of hearing, learned Senior Counsel appearing for the appellants raised an objection regarding the validity of the sale deed and contended that the Sub-Registrar had registered the sale deed of the disputed land without ensuring payment of adequate stamp duty as per the notified guideline rate.
15. Taking note of the aforesaid objection, this Court, vide order dated 11.09.2025, directed the Collector/Collector of Stamps,

Bilaspur to file an affidavit clarifying whether adequate stamp duty, in accordance with the notified schedule rate, had been charged at the time of registration of the sale deed relating to the disputed land.

16. Pursuant to the said order, the District Registrar-cum-Collector of Stamps, Bilaspur, filed his affidavit on 25.9.2025. Perusal of the affidavit would show that after execution of the sale deed dated 29.08.2022, a complaint was submitted by Lt. Col. J.J. Lall (Retd.), associated with the Ex-Defence Services Veterans Association, Bilaspur, alleging commission of fraud upon the Government of Chhattisgarh and the individuals concerned in relation to the registration of Plot No. 34/6, Jarhabhata, situated in Ward No. 09, Nazul Sheet No. 5 at Bilaspur. Considering the seriousness of the allegations, the Collector, District Bilaspur directed the District Registrar/Collector of Stamps to conduct an enquiry and submit a report. The record further reveals that the then District Registrar/Collector of Stamps, Bilaspur, by letter dated 16.09.2022 sought an attested copy of the registered document bearing No. 1054 dated 05.07.2021 from the Sub-Registrar, Bilaspur, who thereafter furnished the required registration documents on 23.09.2022. Upon examination of the said documents, the District Registrar found a prima facie case of deficit stamp duty and registration fees and

accordingly registered Revenue Case No.189/B-105/Year 2021-22 on 23.09.2022 under Section 47-A(3) of the Indian Stamp Act, 1899. It further appears that the said proceedings have been taken up on several dates of hearing and are still pending adjudication before the District Registrar/Collector of Stamps, Bilaspur, wherein respondent No.1 has already entered appearance and sought time for filing reply and the matter is presently fixed for further hearing.

17. It is also evident from the record that the plaintiffs have raised a grievance that they have not received the amount of sale consideration, whereas respondent No.1 claims that the same has been duly paid. In view of the rival stand taken by the parties, this Court, vide order dated 09.03.2026, put a specific query with regard to the payment of the sale consideration through cheques and directed the parties to file affidavits along with bank statements clarifying in whose account the said cheques were deposited.
18. Pursuant to the aforesaid order dated 09.03.2026, an affidavit along with the bank statement has been filed by respondent No.2. In the said affidavit, it has been stated that his father, late Nirmal Kumar Samuel, had orally partitioned the property amongst his children i.e. plaintiffs No.2 & 3 and defendant No.2, pursuant to which each of them came into possession of their respective shares. It is further stated that the

defendant No.2 was allotted a share measuring about 1500 square feet and, being in need of money, he requested his father to execute a sale deed to the extent of his share only, whereupon a registered sale deed was executed in favour of Atul Kumar Shukla (defendant No. 1). It is also stated that since the land had not been formally mutated in the name of the defendant No. 2, the sale consideration was received in the name of his father and deposited in a joint bank account maintained by the defendant No. 2 and his father with Indian Overseas Bank, Gaurav Path, Bilaspur. It has been further averred that no other siblings were account holders in the said account and that the account was mostly operated by the defendant No. 2 himself. According to the defendant No.2, the entire sale consideration amount of approximately Rs.65,00,000/- was withdrawn by him through cheques and vouchers bearing his signatures and that his father did not receive any part of the consideration amount, as the sale pertained only to his share. It has also been alleged that by deception the sale deed mentions the entire property area measuring 644.237 square meters instead of only 1500 square feet and that the said joint bank account had been opened solely for the purpose of receiving the sale consideration pertaining to the share of the defendant No.2 in the property.

19. Further it is noteworthy to mention here that the appellants vide covering memo dated 24.03.2026 have filed guideline fixed by the Government of Chhattisgarh for market value of Immovable property as Annexure A/14 issued by the Sub Registrar, Bilaspur wherein the property located within the main road (including rate of the area situated 20 meters away from the main road) wherein the rate of property located near Rajiv Gandhi Chowk to Maharana Pratap Chowk is fixed at 64000 per sq. meter. Thus if the contention of respondent No. 1 is taken that he has purchased the entire suit property i.e. 644.237 sq.meters is taken into consideration, the sale consideration as the aforesaid market value would have been Rs.4.00 crores (approx.). From perusal of the sale agreement dated 18.08.2022 shows that the total amount of sale consideration was Rs. 65,00,000/- and the stamp duty of Rs. 4,06,250/- only was paid by the respondent No.1. Thus, bare perusal shows that the purchase was made of only 1500 Sq. feet not of entire suit property. From these facts, in considered view of the Court, there is a prima facie case in favour of the appellants herein to extend the benefit of temporary injunction under Order 39 Rule 1 & 2 of the CPC.
20. Further, it is evident from the written statement filed by defendant No. 1 that a portion of the suit land mentioned in the plaint has, in fact, been encroached upon by the plaintiffs.

The material available on record indicates that plaintiff No.1 and the husband of plaintiff No.2, namely Colonel J.J. Lal, have constructed a residential structure partly over Government land by encroaching it. The house constructed by the plaintiffs over a part of the disputed land extends onto Government land bearing Khasra No. 113, particularly over the road situated between the Santoo Kabadi and the house of Gorelal. It has further come on record that local residents of Mother Teresa Ward, namely Chhotelal and Surendra Jogi, have raised objections and initiated efforts for removal of the said encroachment. The Government records reflect that the width of the said road is 30 feet; however, due to the illegal encroachment, only about 8 feet of the road presently remains available for public use. Consequently, steps are being taken by the concerned authorities and local residents to remove the unauthorized occupation so as to restore the road to its original width of 30 feet. In view of these circumstances, the very sanctity and bona fides of the entire transaction relating to the disputed property also appear to be doubtful.

21. The Supreme Court in **Rame Gowda (Dead) by LRs (supra)** has held that even a person in settled possession cannot be dispossessed except by due process of law and that such possession deserves to be protected by the Court.

22. In the present case, the plaintiffs have specifically pleaded that they are in possession of their respective portions of the suit property and have raised constructions thereon. The pleadings and documents placed on record *prima facie* indicate that the plaintiffs claim to have been in long-standing possession of the property pursuant to the alleged oral partition. Whether such partition actually took place and what is the exact extent of the property sold under the impugned sale deed are matters which require detailed adjudication by the trial Court.
23. If during the pendency of the suit the possession of the plaintiffs over the suit property is disturbed or the nature of the property is altered, it may result in irreparable injury and may also lead to multiplicity of proceedings. In such circumstances, the balance of convenience lies in favour of maintaining the existing state of affairs until the rights of the parties are finally determined by the trial Court.
24. The Supreme Court in the matter of **Dalpat Kumar (Supra)** has held that while granting injunction in such cases the court should continuously look to the conduct of the party, probable injuries to either party and whether the plaintiff could be adequately compensated if injunction is refused. Para 5 of the judgment reads thus:-

“5. Therefore, the burden is on the plaintiff by evidence aliunde by affidavit or otherwise that there is "a prima facie case" in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition for the grant of temporary injunction. Prima facie case is not to be confused with prima facie title which has to be established, on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages. The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit.”

25. In the case at hand, from the conduct of defendants No. 1 and 2, it is crystal clear that the sale deed has not been executed

in respect of the entire suit property. Even from the stamp duty paid by defendant No. 1, it can safely be inferred that the same has been paid only in respect of 1500 sq. ft. of land. Had it been a case that defendant No. 1 had purchased the entire suit property admeasuring 644.237 sq. meters, he would have been required to pay stamp duty calculated at the prevailing guideline rate of Rs. 64,000/- per sq. meter, which would have been substantially higher. However, in the present case he has paid stamp duty amounting to only Rs. 4,06,250/-, which clearly indicates that the transaction was not intended to cover the entire suit property. Thus, at this stage, the material available on record *prima facie* indicates that the sale deed does not relate to the entire suit property as alleged by the defendant No.1. Even, the plaintiffs are in possession of their respective portions of the suit property and have raised constructions thereon. Consequently, the balance of convenience heavily lies in favour of the plaintiffs, and if interim injunction is not granted in their favour, they shall suffer irreparable loss and injury, which cannot be adequately compensated in terms of money.

26. In view of the aforesaid discussion, this Court is of the considered opinion that the plaintiffs have been able to establish the existence of a *prima facie* case as also the balance of convenience in their favour. Consequently, the

impugned order dated 05.07.2025 passed by the learned 2nd Additional District Judge, Bilaspur in Civil Suit (A) No.114/2025 rejecting the application under Order 39 Rules 1 and 2 CPC cannot be sustained and is liable to be set aside.

27. Accordingly, the impugned order dated 05.07.2025 is set aside. The application filed by the plaintiffs under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure is **allowed**. The parties are directed to maintain *status quo*, with regard to the suit property, as it exists today, till final disposal of the suit.
28. The learned trial Court shall proceed with the trial of the suit and shall decide the same strictly in accordance with law without being influenced by any observations made in this judgment.
29. Accordingly, the instant Appeal is **allowed**.

SD/-

**(Bibhu Datta Guru)
Judge**

Head Note

The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties.