

**HIGH COURT OF CHHATTISGARH AT BILASPUR****Writ Petition (Art.227) No.2942 of 2011****Petitioner**

Plaintiff

Thansingh Nishad, S/o. Bhurwa
Nishad, aged about 36 years, R/o.
Kutelabhatha, Jevrasirsa, Tahsil and
District Durg (C.G.)

Versus

Respondents

Non-applicants

1. Om Prakash Dani, S/o. Shri
Premulal, aged about 45 years,
2. Sunil Dani, S/o. Premulal aged about
43 years

Both R/o. Village Banbarad, Police
Station Nandani, Tahsil Dhamdha,
(Ahiwara), District Durg (C.G.)
3. State of Chhattisgarh through
Collector, Durg (C.G.)

(Writ Petition under Article 227 of the Constitution of India)

Mr.H.B.Agrawal, Senior Advocate with Ms Sarina Khan, counsel for
the petitioner.

Mr.Rahul Tamrakar, counsel for respondents No.1 and 2.

Mr.Akhil Agrawal, Panel Lawyer for respondent No.3/State.

(SB: Hon'ble Mr. T.P. Sharma, J.)

ORDER

(30-11-2011)

1. By this writ petition under Article 226 & 227 of the Constitution of India the petitioner has challenged the legality and propriety of the order dated 25.4.2011 passed by the 8th Civil Judge Class-II, Durg, in Civil Suit No.182A/2010, whereby the 8th Civil Judge Class-II has stayed the mutation proceeding on the basis of application filed on behalf of the defendants/respondents No.1 and 2 under Section 151 of the Code of Civil Procedure.
2. I have heard learned counsel for the parties, perused the order impugned, copy of the application and other documents filed on behalf of the petitioner.



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3. Injunction application filed on behalf of the petitioner has been dismissed by the trial Court, but on the basis of application filed on behalf of the defendants/respondents No.1 and 2 the trial Court has stayed the proceeding pending before the revenue Courts. Present respondents No.1 and 2 have not filed any counter-claim or suit, no relief has been claimed by them. In these circumstances, there was no propriety for entertaining such application and staying revenue proceeding. By passing such order the trial Court has committed grave illegality.

4. Consequently, the writ petition is allowed and order impugned to the extent of staying the proceeding of revenue Courts is hereby quashed. However, respondents No.1 and 2 are at liberty to claim and redress their grievances before the trial Court in appropriate manner, if they so wish and claim appropriate protection available under the law. No order as to costs.

Sd/-
T.P. Sharma
Judge

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