

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 25<sup>th</sup> OF MARCH, 2026

MISC. PETITION No. 1810 of 2026

*KEDAR PRASAD GUPTA S/O LATE GORELAL GUPTA BADRI  
VISHAL GUPTA (DIED) THROUGH LEGAL HEARS AND OTHERS*

*Versus*

*SATYA PRAKASH GUPTA AND OTHERS*

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Appearance:

*Shri Yogesh Singh Baghel - Advocate for the petitioners.*

*Shri Kaustubh Shankaer Jha - Advocate for the respondents.*

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ORDER

The present petition has been filed challenging the order passed by the Appellate Court dated 20.02.2026, whereby the Appellate Court has allowed the appeal of the defendants and set aside the order of temporary injunction, which was granted by the trial Court on 24.05.2025.

2. A suit has been filed by the present petitioners for declaration and permanent injunction contending that the plaintiffs and defendants No.1 to 28 all belong to the same joint Hindu family governed by Mitakshara School of Hindu Law and there has been no partition between the parties. It is argued that the parties have all descended from common ancestors named as Mahadev and those suit properties for which temporary injunction was granted, are in 8 parcels of land at Tahsil Sohagpur, District Shahdol. These should not be subjected to any interference in possession of the plaintiffs nor the defendants should alienate the property, nor create any third party rights

in the said lands.

3. The Trial Court had granted temporary injunction to the plaintiffs in respect of 8 parcels of land, total area 2.006 hectare out of the entire suit lands. The trial Court has by way of the temporary injunction order directed that the defendants shall not interfere in the possession and enjoyment of the said lands by the plaintiffs nor shall alienate the said property or create third party rights in the said property. The said order was challenged by the defendants before the Appellate Court, which has set aside the said order and vacated the temporary injunction granted by the trial Court.

4. Learned counsel for the petitioner has vehemently argued that all the parties are descended from a common ancestor and therefore, the property is joint family property and the Appellate Court has gravely erred in vacating the temporary injunction, which was validly granted by the Trial Court. It is argued that the trial Court has rightly held that *prima facie* the properties seem to be joint family properties and therefore, granted temporary injunction, which should not have been vacated by the Lower Appellate Court.

5. *Per contra*, counsel for the respondents defendants submitted that the Lower Appellate Court has rightly vacated the temporary injunction granted by the trial Court, because *prima facie* the lands were not shown to be joint family properties and no temporary injunction could have been granted. There is no presumption of the joint family, because the common ancestor was many generations ago and at such distance of generations the property could not have been inferred to be joint family property unless any

prima facie proof of continued existence of joint family was shown or creation of joint family interest in the property had been shown. Therefore, the Appellate Court has rightly vacated the temporary injunction granted by the trial Court.

6. Upon hearing learned counsel for the parties at length and on perusal of the documents on record, it is seen that the parties in the suit have descended from the common ancestor Mahadev, and are at least 5 to 8 generations ahead of Mahadev. The trial Court held that the defendants could not establish that the property is not joint family property, but the Appellate Court held that property could not be *prima facie* shown to be joint family property. Therefore, on one hand the trial Court had held that the burden is on the defendants to rebut that the property is not joint family property, but the Lower Appellate Court has rightly held that burden is on the plaintiffs to *prima facie* show that the property is joint family property.

7. The Appellate Court has rightly held that only because the original ancestor was one Mahadev any land which is recorded in the name of successors of Mahadev cannot be inferred to be joint family property being descended from Mahadev unless some documents to that effect are shown. The Appellate Court has held that there is no order nor any material to show that the ancestor of the branch of plaintiffs namely *Nankuva* was recorded on the lands in the 8 survey numbers, which are subject matter of temporary injunction and therefore, *prima facie* there is no material on record to infer that the lands are joint family properties.

8. This Court does not find any error of law or jurisdiction or

reasoning in the aforesaid order passed by the Lower Appellate Court. The petitioners being the plaintiffs, the burden was on the petitioners to have *prima facie* established that there was a joint family and the properties in question belonged to that joint family, which they *prima facie* could not establish.

9. Therefore, finding no good reason to interfere with the well reasoned order passed by the learned Appellate Court, the petition fails and is **dismissed**.

(VIVEK JAIN)  
JUDGE