

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
WRIT PETITION (Art. 227) NO 834 /2014

PETITIONER
Plaintiff

Sunil Mathrani, son of Shri
Tulsidas Mathrani, aged about
44 years, resident of Vrindavan
Colony, Jagdalpur, District
Bastar.

R. No. 834/14
Presented by Shri. Mani Shankar
dated. 14/4/14

Civil & Revenue District Bastar.

RESPONDENTS
Defendants

Vs

1. Mst. Lakhmi, wife of Budhru,
aged about 40 years, caste-
Mahara (non-tribe), resident
of village Markel, Tahsil
Jagdalpur, District Bastar
(CG)
2. State of C.G., through the
Collector, Bastar, Jagdalpur.

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH : BILASPUR
W.P.(227) No.834 of 2014

PETITIONER

Sunil Mathrani

Versus

RESPONDENTS

Mst. Lakhmi & another

Single Bench : Hon'ble Shri Justice Prashant Kumar Mishra

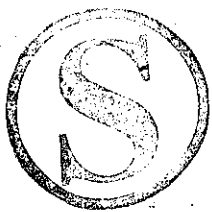
Present :- Shri BP Sharma, Advocate for the petitioner.
 Shri Praveen Kumar Tulsyan, Advocate for respondent No.1.
 Shri Ashutosh Pandey, PL for the State/respondent No.2.

ORAL ORDER

(Passed on this 21st Day of January, 2015)

Heard learned counsel for the parties.

1. This is plaintiff's petition under Article 227 of the Constitution of India. He is aggrieved by the order passed by the trial Court refusing to permit him to amend the plaint to plead execution of sale deed for the suit property by defendant No.1 in favour of some other persons during pendency of the suit.
2. In the subject amendment application, the plaintiff proposed to plead that on 5-10-2013 defendant No.1 executed two separate sale deeds in favour of P. Rajesh Kumar, Ram Narayan Sethia, Devanand Sethia and Smt. Sarla Tiwari and thereafter on 10-12-2013, executed another sale deed in favour of Manisha Lachwani and yet again on 4-2-2014 in favour of Dularam Lachwani. The sale deeds having been executed during pendency of the suit, are not binding on the plaintiff.
3. The suit is for specific performance of the sale agreement dated 13-6-2005. While refusing the permit amendment, the trial Court has observed that despite confronting the defendant with the sale deed, the amendment application was moved subsequently, therefore, it deserves to be rejected.
4. In the opinion of this Court, the reasoning on which the trial Court has refused to permit amendment does not hold good in view of the fact that



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the amendment is sought on the basis of the subsequent event, which happened during pendency of the suit. There may be delay of some days in moving the application after knowing about the transactions, but the said delay of few days should not create a bar for the plaintiff to seek amendment in the plaint, which is otherwise necessary in view of the fact that defendant has created third party interest in the suit property.

5. For the above reason, the order passed by the trial Court deserves to be and is hereby set aside. Accordingly, the petition is allowed and the petitioner is permitted to amend the plaint. Needless to say that the defendant would be entitled to make consequent amendment in the written statement.

Sd/-
Prashant Kumar Mishra
Judge

