

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 766 of 2015

1. Smt. Pushpa Agrawal Wd/o Late Vinod Agrawal, Aged About 58 Years
2. Dr. Toshi Agrawal, D/o Late Vinod Agrawal, Aged About 34 Years
3. Ku. Roshi Agrawal, D/o Late Vinod Agarwal, Aged About 31 Years
4. Ku. Mukti Agrawal, D/o Late Vinod Agrawal, Aged About 28 Years
5. Ku. Sikha Agrawal, D/o Late Vinod Agrawal, Aged About 25 Years
6. Ku. Rashmi Agrawal, D/o Late Vinod Agrawal, Aged About 23 Years

All are R/o Near Kankalin Mandir, Durg, Tahsil And District Durg (Chhattisgarh)

7. Shila Agrawal, Wd/o Late Pramod Kumar Agrawal, Aged About 57 Years
8. Yashraj Agrawal, S/o Late Pramod Kumar Agrawal, Aged About 31 Years
9. Shweta Agrawal, D/o Late Pramod Kumar Agrawal, Aged About 28 Years
10. Apurva Agrawal, D/o Late Pramod Kumar Agrawal, Aged About 24 Years
11. Tarun Kumar, S/o Parmanand Agrawal, Aged About 53 Years
12. Vipin Kumar, S/o Parmanand Agrawal, Aged About 51 Years

No. 7 to 12 are R/o Baniyapara, Durg, Tahsil And District Durg, (Chhattisgarh)

---- Petitioners

Versus

1. Chaiti Bai Wd/o Late Manharan Lal Dhimar, Aged About 62 Years
2. Krishna Kumar, S/o Late Manharan Lal Dhimar, Aged About 28 Years
3. Aenu Kumar, S/o Late Manharan Lal Dhimar, Aged About 26 Years

All R/o Shiv Nagar, Behind Keju Mill, Durg, Tahsil And District Durg, (Chhattisgarh)

---- Respondents

For Petitioners	: Shri H.B. Agrawal, Sr. Advocate with Shri Pankaj Agrawal, Advocate
For Respondents	: Shri P.P.Sahu, Advocate

Order

17/09/2015

Heard on admission.

1. This petition is directed against order dated 20th August, 2015 passed by the Board of

Revenue by which petitioners' revision has been dismissed, affirming order passed by the Commissioner in the revenue appeal.

2. Learned counsel for the petitioners argued that the view taken by the Board of Revenue that once a sale deed has been executed and registered, the power of cancellation or rectification of the deed is only with the Civil Court and not with the Registrar, is not sustainable in law. According to him, it was within the authority of the Registering Officer to cancel the sale deed. It is next contended that the cancellation of sale deed has not been declared void under a decree of Civil Court. Therefore, the documents of cancellation holds the fields and that should be made a basis to decide mutation application rather than the sale deed which was earlier executed. It is also submitted that earlier, under the application of mutation filed by Tulsi Ram, order of mutation was passed on 3.2.1983 which was challenged in appeal before the Sub Divisional Officer, who, vide order dated 16.6.1986 remanded the matter for deleting the name of Permanand Agrawal and to bring on record legal heirs of Permanand and then to decide the matter afresh. Therefore, again a separate proceedings by legal heirs of Tulsiram could not be initiated by filing fresh application on 14.6.2017 out of which present petition has arisen.
3. In view of provision contained in Sections 26 and 31 of the Specific Relief Act, 1963 (for short "*the Act of 1963*"), rectification or cancellation of sale deed is not within the authority of the Registering Authority. If any party seeks cancellation of sale deed, the remedy is to file a suit for such cancellation under the provision of Section 31 of the Act of 1963. As long as that is not done, the rights of the parties will have to be decided on the basis of registered sale deed. In the present case, the registered deed of sale was never cancelled by a competent Civil Court. The subsequent act of the Registering Authority in cancelling sale deed has no legal consequences to follow.
4. True it is that earlier an application for mutation was filed by the purchaser Tulsi Ram which remained pending before the Tahsildar after remand, it is equally true that no orders were passed. Therefore, filing of fresh application by legal heirs of Tulsi Ram initiating fresh proceedings are not liable to be set aside only on this ground. The legal position has been correctly analyzed by the Board of Revenue and it calls for no interference.
5. The petition is therefore dismissed.

Sd/-

(Manindra Mohan Shrivastava)

Judge