

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.70 of 2009**

1. Smt. Chanda Bai, aged 60 years, Widow of Late Shri Bhagirathi,
2. Nanda Lal, aged 25 years, Son of Late Shri Bhagirathi,
3. Nanda Kishor, aged 22 years, Son of Late Shri Bhagirathi,
4. Nanda Kumar, aged 19 years, Son of Late Shri Bhagirathi,

All the resident of Tilaknagar, near Brahaspati Bazar,
Bilaspur, Tahsil and District Bilaspur (CG)

---- Appellants**Versus**

Nagar Palika Nigam, Bilaspur, through the Commissioner,
Nagar Palika Nigam, Bilaspur, Tahsil and District Bilaspur (CG)

---- Respondent

For Appellants : Mr.C.D.Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****11/08/2016**

1. Original plaintiff-Bhagirathi filed a suit for declaration of title and permanent injunction against Municipal Corporation, Bilaspur. Said civil suit was dismissed by the trial Court holding that the plaintiffs were in possession of the suit land in the capacity of encroacher as lease was not granted properly and the State of Chhattisgarh was necessary party in the suit.
2. Against which, the plaintiffs preferred First Appeal before the 9th Additional District Judge (F.T.C.), Bilaspur, in Civil Appeal

No.17-A/2008. The First Appellate Court reversed the finding of the trial Court in part and held that lease was rightly granted in favour of plaintiff Nand Kishor, son of Bhagirathi and agreed with the finding of the trial Court that the State Government is necessary party and dismissed the appeal.

3. In the appeal filed by the plaintiffs, Mr.C.D.Sharma, learned counsel appearing for the appellants/plaintiffs, would submit that both the Courts below erred in holding that the State Government is necessary party and that finding is perverse as no relief has been sought against the State Government and it gives rise to substantial question of law for adhesion of this appeal. He relied upon the judgment of the Supreme Court in the matter of **The Church of Christ Charitable Trust & Educational Charitable Society, rep. By its Chairman Vs. M/s. Ponnamman Educational Trust rep. By its Chairperson/Managing Trustee**¹.

4. I have heard learned counsel appearing for the appellant and perused the records of the Courts below with utmost circumspection.

5. The plaintiffs have sought declaration of title and permanent injunction over the suit land. The plaintiffs themselves have filed the document Ex.P/1, which is copy of Sandharan Khasra of the year 1999-2000, in which the land

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has been shown to be Nazul land bearing Plot No.11/7. Likewise by Ex.P/2, lease was granted to Nand Kishor Verma, son of original plaintiff Bhagirathi by the Sub-Divisional Officer-cum-Authorised Officer, Bilaspur under the Madhya Pradesh Nagriya Khetra Ke Bhumihin Wakti (Pattadhruti Adhikaro Ka Pradan Kiya Jana) Adiniyam, 1984.

6. Thus, apparently the land is owned by the State Government and lease was also granted by the Sub-Divisional Officer (Revenue), Bilaspur in favour of the appellants, therefore, in the considered opinion of this Court, both the Courts below have not committed any illegality in holding that the State Government is necessary party in the suit.

7. I do not find any illegality in the said finding. No substantial question of law is involved for admission of this appeal. Consequently, the appeal being without substance is liable to be and is hereby dismissed.

Sd/-

(Sanjay K Agrawal)
Judge

B/-