

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 86 of 2016**

Sagun Singh Thakur, son of Madho Singh Thakur, aged about 52 years, R/o Plot No. 10, Street-F/6, Zone-02, New Adarsh Nagar, Durg, District Durg (C.G.)

---- Petitioner

Versus

1. Rishi Chandrakar, son of Ashok Chandrakar, aged about 28 years, R/o. Borsi, Tahsil and District Durg (C.G.)
2. State of Chhattisgarh, Through : The Collector, Durg, District Durg (C.G.)

---- Respondents

For Petitioner	:	Shri Jitendra Gupta, Advocate.
For Respondent No.1	:	Shri Manish Upadhyaya, Advocate.
For Respondent No. 2	:	Shri Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****08/12/2016**

Heard.

(1) The petitioner/defendant filed an application under Sections 17 & 49 of the Indian Registration Act read with section 35 of the Indian Stamp Act & Section 53- A of the Transfer of Property Act stating *inter alia* that agreement dated 2.8.2011 is not duly stamped and not registered under the provisions of Section 49 of the Indian Registration Act and, therefore, it be held as inadmissible in evidence.

(2) The trial Court, by its impugned order dated 5.12.2015, held that the said agreement is only an agreement to sell of immovable property and duly stamped under Schedule 1-A of the Indian Stamp Act and stamp duty of Rs.50/- has been affixed and rejected the application,

against which the instant writ petition under Article 227 of the Constitution of India has been filed.

(3) After hearing learned counsel appearing for the petitioner and after perusing the order impugned, it is apparent that the trial Court has rightly recorded a finding that agreement is only an agreement to sell of immovable property and duly stamped under Schedule 1-A of the Indian Stamp Act and stamp duty of Rs.50/- has been affixed, in which, I do not find any illegality in the order impugned warranting interference by this Court in this petition.

(4) Applying its earlier decision in **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction. It has also been held that supervisory jurisdiction or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

failure of justice has occasioned thereby. The power to issue a writ of *certiorari* and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act least a gross failure of justice or grave injustice should occasion.

(5) Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-