

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (227) No.227 of 2016

1. Mohitram Verma, S/o Shri Jhularam Verma, aged about 64 years,
2. Lokram Verma, S/o Shri Jhularam Verma, aged about 44 years,
3. Smt. Fekan Bai, Wd/o Shri Jhularam Verma, aged about 75 years,
4. Shyama Bai D/o Shri Jhularam Verma, aged about 56 years, mentally retarded, through legal guardian brother Mohitram Verma, S/o Shri Jhularam Verma,

All by Occupation - Agriculturist, R/o Village Bemetara, Tahsil Bemetara, District Bemetara CG)

---- Petitioners

Versus

1. Tukaram, S/o Pusauram Kurmi, aged about 55 years,
 2. Sukhdev S/o Pusauram Kurmi, aged about 50 years,
 3. Dropati Bai D/o Pusauram Verma, aged about 60 years,
- All by Occupation Agriculturist, R/o Village Bemetara, Tahsil Bemetgra, District Bemetara (CG)
4. The State of Chhattisgarh, Through : the Collector, Bemetara, District Bemetara (CG)

---- Respondents

For Petitioner : Mr.P.P. Sahu, Advocate
For Res.No.1 to 3 : Mr.A.K. Yadav, Advocate
For State : Mr.Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/11/2016

1. By the order impugned, the trial Court has rejected the objection of the petitioners/plaintiffs on the Commissioner's report.
2. Learned counsel for the petitioners would submit that objection raised by the petitioners/plaintiffs ought to have sustained by

the trial Court.

3. On the other hand, learned counsel appearing for respondents No. 1 to 3 would submit that report of the Commissioner has been submitted and the petitioners are free to establish their objection by examining the Commissioner during course of the trial.
4. After hearing learned counsel appearing for the parties, I do not find any illegality in the order impugned. The trial Court has exercised its discretion by rejecting the application.
5. 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

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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 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 lest a gross failure of justice or grave injustice should occasion. However, the petitioners are at liberty to examine the Commissioner with the permission of the Court. The trial Court is directed to expedite the trial and conclude the same as early as possible preferably within a period of six months from the date of receipt of certified copy of this order as the trial is pending since 2003.

6. With the aforesaid observation, the writ petition is disposed of.
No order as to cost(s).

Sd/-

(Sanjay K Agrawal)
Judge

B/-