

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 321 of 2016**

1. Prakash Sharma S/o Shri Nirmal Kumar Sharma, Aged About 36 Years Resident of Kayasth Para, Thakur Para, Behind Turi-Hatri, Purani Basti, Raipur (Chhattisgarh)
2. Smt. Nitu Sharma, W/o Late Chhail Bihari Sharma, Aged About 37 Years R/o Kayasth Para, Thakur Para, Behind Turi-Hatri, Purani Basti, Raipur (Chhattisgarh) Civil & Revenue District Raipur

---- Appellants**Versus**

1. The Office of District & Sessions Judge Raipur (Chhattisgarh) Through Incharge Officer, Nazarat Branch, For The Office Of District & Sessions Judge, Raipur, District Raipur (Chhattisgarh)
2. Raipur Zila Civil Court Karamchari Kalyan Samiti, Raipur (Chhattisgarh) Through The Secretary, Karamchari Kalyan Samiti Raipur, District Raipur (Chhattisgarh)

---- Respondents

For Appellants : Shri B.P. Sharma, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay K. Agrawal, J.

Order on Board**Per Deepak Gupta, Chief Justice****11/07/2016**

1. The cycle stand in question was allegedly handed over to one Shri Chhail Bihari Sharma by the Employees Welfare Association, Raipur of the District Court at Raipur from 30.7.1998. Shri Chhail Bihari Sharma died on 24.11.2015. It appears that before his death, some complaints regarding over-charging at cycle stand at Raipur, were received. Thereafter, a committee constituted by the District Judge, inquired into the matter and came to the conclusion that the complaint regarding excess charges, was correct.

2. The main ground raised is that after the death of Shri Chhail Bihari Sharmal, with oral permission of the Employees Welfare Association, Raipur, the cycle stand was handed over to the Appellants who are the brother and wife of the deceased.

3. This cycle stand is not a property of Employees Welfare Association, Raipur. It is a property of State of Chhattisgarh vested in it through the Law Department. The Employees Welfare Association can at best have the right to manage the cycle stand but it had no inherent right to transfer the same in perpetuity to Shri Chhail Bihari Sharma. After the death of Shri Chhail Bihari Sharma, the only proper procedure was to re-advertise the auction of the cycle stand so that it is run properly.

4. We are of the clear view that the Employees Welfare Association, Raipur had no right to orally grant permission to the Appellants to run the cycle stand. Reference has been made to Section 107 of the Transfer of Property Act which provides that oral contract can be entered only between the owner of the property to whom he can deliver possession. The Employees Welfare Association is not the owner of the property. No authority of the State or any other authority duly empowered by the State has been shown how they delivered the possession to the Appellants to run the cycle stand.

5. So far as the stigma is concerned, on reading, we find that there is no personal stigma on the character of the deceased. The Learned Single Judge was justified in dismissing the writ petition.

6. We find no merit in the writ appeal. It is accordingly dismissed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay K. Agrawal)
JUDGE