

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 302 of 2016**

Aftab Siddique S/o Shri A.M. Siddique, Aged About 34 Years R/o
Near Nayapara Masjid, Nayapara, Civil And Revenue District
RaipurDefendant No. 1

---- Petitioner**Versus**

1. Bhunu S/o Late Halalkhor, Aged About 80 Years Caste Satnami,
R/o Village Sejbahar, Tahsil And District Raipur, Chhattisgarh
.....Plaintiff
2. Ishwar, S/o Bhunu, Aged About 47 Years Caste Satnami, R/o
Village Sejbahar, Tahsil And District Raipur, Chhattisgarh
.....Plaintiff
3. Dhannu, S/o Bhunu, Aged About 42 Years Caste Satnami, R/o
Village Sejbahar, Tahsil And District Raipur, Chhattisgarh
.....Plaintiff
4. State Of Chhattisgarh, Through Collector, Raipur, Chhattisgarh
.....Defendant No. 2

---- Respondents

For Petitioner : Shri Rajesh Kumar Tiwari, Advocate.
For Respondent No. 4 : Shri Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****29/11/2016**

(1) By the impugned order, the trial Court has allowed the application under Section 65 of the Evidence Act and permit the plaintiffs to adduce secondary evidence with regard to the agreement dated 1.8.2006, against which, instant writ petition under Article 227 of the Constitution of India has been filed.

(2) Learned counsel appearing for the petitioner would submit that the

trial Court has committed illegality in granting such permission as notarized document i.e. agreement dated 1.8.2016 is not covered under Section 63(2) of the Evidence Act.

(3) I have heard learned counsel appearing for the petitioner and perused the order impugned with utmost circumspection.

(4) The trial Court has exercised its discretion while granting application under Section 65 of the Evidence Act finding it expedient and permissible to do so, in which I do not find any illegality warranting interference by this Court in this petition.

(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 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.

(18) Accordingly, the writ petition fails and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

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