

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 304 of 2016**

1. Chandra Kishore Agrawal S/o Late Shri Ram Dwarika Lal Agrawal, Aged About 56 Years R/o Lohar Chowk, Purani Basti Raipur, Tahsil And District Raipur Civil And Revenue District Raipur (C.G.)
2. Nawal Kishore Agrawal, S/o Late Shri Ram Dwarika Lal Agrawal, Aged About 54 Years R/o Lohar Chowk, Purani Basti Raipur, Tahsil And District Raipur Civil And Revenue District Raipur (C.G.)
3. Brij Kishore Agrawal, S/o Late Shri Ram Dwarika Lal Agrawal, Aged About 50 Years R/o Lohar Chowk, Purani Basti Raipur, Tahsil And District Raipur Civil And Revenue District Raipur (C.G.)
4. Anand Kishore Agrawal, S/o Late Shri Ram Dwarika Lal Agrawal, Aged About 50 Years R/o Lohar Chowk, Purani Basti Raipur, Tahsil And District Raipur Civil And Revenue District Raipur (C.G.)

---- Petitioners**Versus**

1. Municipal Corporation Raipur Chhattisgarh Through The Commissioner, Municipal Corporaiton Raipur, Head Office Malviya Road, Near Jaistambh Chowk Raipur Tahsil And District Raipur, Chhattisgarh
2. Zone Commissioner, Zone No. 4, Municipal Corporation, Behind Shyam Talkies, Outdoor Stadium, Raipur Tahsil And District Raipur, Chhattisgarh
3. Incharge Officer, Electrical Department, Municipal Corporation, Raipur, Tahsil And District Raipur Chhattisgarh

---- Respondents

For Petitioners	: Shri Rajesh Kumar Tiwari, Advocate.
For Respondents	: Shri H.B. Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****06/12/2016**

Heard.

- (1) The trial Court, by its impugned order dated 09.02.2016, rejected the petitioners' application filed under Order 11 Rule 12 of the CPC,

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

(2) After hearing learned counsel appearing for the parties and after perusal of the order impugned, it is apparent that the trial Court has clearly recorded a finding that plaintiffs have to prove that he is owner and title holder of the suit land, on which, the Respondents/Municipal Corporation has erected two poles and rejected the application.

(3) The trial Court has exercised its discretion by rejecting application, which is valid and proper exercise of jurisdiction, in which I do not find any illegality warranting interference by this Court in the instant 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

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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 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. However, the trial Court is directed to decide the suit expeditiously preferably within a period of six months from the date of receipt of copy of this order.

Sd/-

(Sanjay K. Agrawal)
Judge