

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.1026 of 2015

Dukhi Bai, W/o Rupdhar Sahu, aged about 62 years, R/o Village Dongripali, P.H.No.9, R.I.C.-Pithora, Tahsil Pithora, District Mahasamund (C.G.)

(Plaintiff)
---- Petitioner

Versus

1. Nandlal, aged about 50 years, S/o Chandrika Prasad,
2. Sunderlal, aged about 48 years, S/o Chandrika Prasad,
3. Ramlal, aged about 45 years, S/o Chandrika Prasad,
4. Dulikeshan, aged about 31 years, S/o Bodhram Sahu,

Respondents No.1 to 4 are R/o Village Dongripali, P.H.No.9, R.I.C.-Pithora, Tahsil Pithora, District Mahasamund (C.G.)

5. State of Chhattisgarh, through the Collector, District Mahasamund (C.G.)

(Defendants)
---- Respondents

For Petitioner:	Mr. Vikash Pradhan, Advocate.
For Respondents No.1 to 4:	Mr. Shailesh Poriya, Advocate.
For State/Respondent No.5:	Mr. Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/11/2016

1. The trial Court by its impugned order allowed the application filed under Section 35 of the Indian Stamp Act, 1899 and permitted the defendants to impound the Batwaranama dated 24-4-1986 in accordance with law against which this petition under Article 227 of the Constitution of India has been filed by the plaintiff.
2. Learned counsel for the petitioner / plaintiff submits that such an

impounding is not permissible and as such, the plaintiff will be prejudiced by such impounding directed by the trial Court.

3. The trial Court while considering the application under Section 35 of the Indian Stamp Act, 1899 has recorded sufficient and valid reasons to grant such an application holding that such an impounding is legally permissible in the interest of justice in which I do not find any error of jurisdiction.
4. It has not been shown that the trial Court has not exercised the discretion judicially and it has been exercised arbitrarily, capriciously or perversely. Therefore, once the discretion has been exercised by the trial Court judicially, this Court in exercise of jurisdiction under Article 227 of the Constitution of India would not like to interfere.
5. Applying its earlier decision in the matters of **Surya Dev Rai v. Ram Chander Rai**¹ and **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Supreme Court in the matter of **Sameer Suresh Gupta through PA Holder v. Rahul Kumar Agarwal**³ has held that supervisory jurisdiction under Article 227 of the Constitution of India 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

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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 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.

6. In view of the above, the writ petition deserves to be dismissed and is accordingly dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge