

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 121 of 2017**

1. Smt. Raimunbai Wd/o Fattelal, Aged About 86 Years Agriculturist R/o Village Tendubhata Tah. Saja, Dist. Bemetara (Chhattisgarh)
2. Smt. Kailashabai Aged About 50 Years R/o Village Kargikala, Tah. Kota, Dist. Bilaspur (Chhattisgarh)

---- Petitioners**Versus**

1. Sateesh Bhatt S/o Late Shri Ambika Prasad Bhatt, Aged About 59 Years R/o Tendubhata, Tah. Saja, Dist. Bemetara (Chhattisgarh)
2. Madan Gopal Bhatt S/o Late Shri Ambika Prasad Bhatt, Aged About 55 Years R/o Tendubhata, Tah. Saja, Dist. Bemetara (Chhattisgarh)
3. (A) Smt. Rama Bhatt, W/o Late Rajendra Kumar Bhatt, Aged About 42 Years At Present Residing In The House Of Shri Ram Kumar Sharma Shri Santosh Kumar Sharma Fruits Shop Keeper, Near Shankar Temple, Devridih, P. O. Torwa, District Bilaspur (Chhattisgarh).
3. (B) Ku. Nisha, D/o Late Rajendra Kumar Bhatt Aged About 6 Years Minor Through Her Mother Rama Bhatt, W/o Rajendra Kumar Bhatt, At Present Residing In The House Of Shri Ram Kumar Sharma Shri Santosh Kumar Sharma Fruits Shop Keeper, Near Shankar Temple, Devridih, P. O. Torwa, District Bilaspur (Chhattisgarh).
3. (C) Indrajeet @ Veenu, S/o Late Rajendra Kumar Bhatt Aged About 2 Years Minor Through Her Mother Rama Bhatt, W/o Rajendra Kumar Bhatt, At Present Residing In The House Of Shri Ram Kumar Sharma Shri Santosh Kumar Sharma Fruits Shop Keeper, Near Shankar Temple, Devridih, P. O. Torwa, District Bilaspur (Chhattisgarh).
4. Sudhakar Bhatt S/o Late Shri Ambika Prasad Bhatt, Aged About 52 Years R/o Tendubhata, Tah. Saja, Dist. Bemetara (Chhattisgarh)
5. Smt. Shobha Bhatt D/o Late Shri Ambika Prasad Bhatt, Aged About 44 Years R/o Tendubhata, Tah. Saja, Dist. Bemetara (Chhattisgarh)
6. Lalaram Bhatt S/o Thaan Singh Bhatt, Aged About 76 Years R/o Village Kumbhi, P. O. Baargaon, Tah. Berla, Dist. Bemetara (Chhattisgarh)
7. Dinesh Kumar Bhatt, S/o Lalaram Bhatt Aged About 52 Years R/o Village Kumbhi, P. O. Baargaon, Tah. Berla, Dist. Bemetara (Chhattisgarh)
8. Devi Prasad Bhatt S/o Lalaram Bhatt Aged About 42 Years R/o Village Kumbhi, P. O. Baargaon, Tah. Berla, Dist. Bemetara (Chhattisgarh)
9. Smt. Manjoo Bhatta D/o Lalaram Bhatt Aged About 40 Years R/o Village Kumbhi, P. O. Baargaon, Tah. Berla, Dist. Bemetara (Chhattisgarh)

10. The State Of Chhattisgarh, Through The Collector Bemetara, Dist. Bemetara (Chhattisgarh)

---- Respondents

For Petitioners : Mr. Viprasen Agrawal, Advocate.
For Respondents : Mr. P.P. Sahu, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/06/2017

(1) By the impugned order, judgment debtor's application under Section 151 read with Section 15(b) of the Hindu Succession Act has been rejected by the Executing Court.

(2) The trial Court has clearly held that in the judgment and decree passed by the Civil Court in Execution Case No.77-A/84 dated 1,3,1984, this execution has been filed and rejected the application for execution finding no merit.

(3) Learned counsel for the petitioner would submit that the trial Court has committed jurisdictional error in rejecting the application and, therefore, the impugned order is liable to be set aside.

(4) On the other hand, counsel for the respondent support the impugned order.

(5) I have heard learned counsel appearing for the parties and perused the record with utmost circumspection.

(6) Decree passed by the trial Court has become final and the contention of the petitioner has been overruled by the trial Court/appellate Court.

(7) The petitioners were permitted to raise the points, which were considered and rejected by the trial Court and decree has become final.

(8) It is well settled that the executing Court cannot go beyond the decree.

(9) In view of above, the trial Court has assigned valid and sufficient reasons for rejecting the petitioner's application, in which I do not find any jurisdictional error warranting interference by this Court under Article 227 of the Constitution of India.

(10) 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 failure of justice has occasioned thereby. The power to issue a writ of

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

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.

(11) Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-