

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Art. 227) No.108 of 2017

Vijay Anant, aged about 56 years, S/o Late Sakharam, R/o Qtr.
No. 724, Sundar Nagar, Raipur, Distt. Raipur (C.G.)

(Def. No.3)
---- Petitioner

Versus

1. Smt. Indu Mishra, W/o Shri Madhu Sudan Mishra, R/o Prayag
Kunj, Boriya Road, Bajrang Chowk, Santoshi Nagar, Raipur,
Distt. Raipur (C.G.)

(Plaintiff)

2. Ashok Verma, S/o Shri Kripashankar Verma, R/o Raipur
Convent School, Ashwani Nagar, Raipur, Distt. Raipur (C.G.)

(Def. No.1)

3. The State of C.G., Through Collector, Raipur (C.G.)

(Def. No. 2)
---- Respondents

For Petitioner: Mr. Malay Kumar Bhaduri, Advocate.

For Respondent No.1: Mr. Y.C. Sharma, Advocate.

For Respondent No.2: Mr. Sachin Singh Rajput, Advocate.

For Respondent No.3 / State: -

Mr. Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

18/07/2017

1. Mr. Malay Kumar Bhaduri, learned counsel for the petitioner, would submit that the trial Court by its impugned order has not decided the plea raised by the petitioner that Article 23-A of Schedule I of the Stamp Act, 1899 will not be applicable in the instant case and Article 23 would be applicable, therefore, the impugned order is liable to be set aside. He placed reliance upon a judgment of the Supreme Court in the matter of **Avinash**

Kumar Chauhan v. Vijay Krishna Mishra¹.

2. However, Mr. Sharma and Mr. Rajput, learned counsel appearing for respondents No.1 and 2, respectively, would support the impugned order.
3. Be that as it may, a bare perusal of the impugned order and relevant statute would show that the trial Court though has considered the cases of respective parties, but has not decided the petitioner's review application on the ground that Article 23-A of Schedule I of the Stamp Act, 1899 would not be applicable and Article 23 would be applicable. Therefore, the trial Court is directed to consider and decide the review application of the petitioner afresh and take a decision within a period of one month without interrupting the progress of the suit and proceed further expeditiously, as the suit is of the year 2004.
4. The writ petition is disposed of finally with the aforesaid observation and direction. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

¹ AIR 2009 SC 1489