

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.5276 of 2007**

1. Anuj Ram, S/o Shri Shivnath Sahu, aged about 72 years, R/o village Narainpur, Tahsil Lormi, District Bilaspur.
- 2. Sanehi Ram, S/o Anuj Ram Sahu, aged about 42 years, R/o Village Narainpur, Tahsil Lormi, District Bilaspur (CG).

---- Petitioners**Versus**

1. Board of Revenue through its Chairman, Bilaspur.
- 2. State of Chhattisgarh, through the Collector, Bilaspur.
- 3. Additional Collector, Bilaspur (CG).
- 4. Dharam Singh, S/o Shri Maniram Gond, aged about 51 years, R/o Village Narainpur, Tahsil Lormi, District Bilaspur (CG).
- 5. Ram Singh S/o Dasrath (since deceased), through his legal representatives.
- (a) Banshi Ram Dhruv, S/o Shri Ram Singh, R/o village and post Manoharpur, Tahsil Lormi, District Bilaspur (CG).
- (b) Smt. Basanti Bai, D/o Ram Singh, W/o Dileshwar, R/o Village and Post Sardha, Tahsil Lormi, District Bilaspur (CG).
- (c) Smt. Bhulan Bai, D/o Ram Singh, W/o Suraj, R/o Village and Post Vicharpur, Tahsil Lormi, District Bilaspur (CG).

--- Respondents

For Petitioners : Mr. Pramod Kumar Verma, Sr. Advocate with Mr. Sumit Verma, Advocate
 For State : Mr. Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

28.08.2017

(1) The petitioners purchased land from Ram Singh on 06.11.1984. Thereafter, the plaintiff/petitioner No.2 herein filed civil suit

being Civil Suit No.19-A/96 against respondent No.4-Dharam Singh and others for declaration of title and permanent injunction before the trial Court. The trial Court by its order dated 18.07.1996 has decreed in favour of the plaintiff/petitioner No.2. Against the order dated 18.07.1996, respondent No.4-Dharam Singh has preferred an application under Section 170(B) of the Chhattisgarh Land Revenue Code, 1959 before the Sub Divisional Officer, Lormi and the same was rejected by the Sub Divisional Officer, Lormi by order dated 09.12.1996, against which respondent No.4 preferred an appeal before the Additional Collector, Bilaspur. The Additional Collector has allowed the appeal vide order dated 25.03.2003.

(2) Feeling aggrieved against the order dated 25.03.2003, the petitioners preferred a revision under Section 50 of the Chhattisgarh Land Revenue Code, 1959 before the Board of Revenue, Bilaspur. The Board of Revenue, Bilaspur has rejected the revision on 25.06.2007 against which, this petition under Article 226 of the Constitution of India has been filed by the petitioners herein questioning the order of Board of Revenue, Bilaspur.

(3) Mr. Pramod Kumar Verma, learned Senior Advocate appearing for the petitioners would submit that the trial Court has already decreed the suit filed by one of the petitioners i.e. petitioner No.2-Sanehi Ram and decree for declaration and permanent injunction has already granted in favour of him by the trial Court on 18.07.1996 and therefore, the impugned order is liable to be set-aside.

(4) Mr. Aditya Sharma, learned counsel for the State/respondents No.2 & 3 would support the impugned order and oppose the prayer made by learned counsel for the petitioners.

(5) I have heard learned counsel for the parties and perused the impugned order.

(6) It is not in dispute that the civil suit filed by one of the plaintiffs i.e. petitioner/plaintiff No.2-Sanehi Ram herein before the trial

Court. The said suit has already been decreed and decree for declaration of title and permanent injunction were granted in favour of the petitioner/plaintiff No.2 and decree of the suit is binding upon the revenue court.

(7) The Supreme Court in the matter of **State of Kerala Vs. M.K. Kunhikannan Nambiar Manjeri & Others** reported in **(1996) 1 SCC 435**, has held that even a void or decision rendered between parties cannot be said to be non-existent in all cases and in all situations. Ordinarily, such an order will, in fact, be effective inter partes until it is successfully avoided or challenged in a higher forum. Mere use of the word 'void' is not determinative of its legal impact. The word 'void' has a relative rather than an absolute meaning. It only conveys the idea that the order is invalid or illegal. It can be avoided.

(8) In view of the aforesaid legal position the order of the civil court has not been set-aside by the appellate court, therefore, the impugned order is set-aside and the application filed by the respondent No.4 under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 is hereby rejected.

(9) Consequently, the writ petition is allowed to the extent indicated hereinabove. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-