

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.1181 of 2007

1. Anupam Kumar Agrawal, S/o Rambilas Agrawal, Aged about 35 years.
2. Deepak Kumar Agrawal, S/o Rambilas Agrawal, Aged about 32 years.

Both above R/o Babupara, Ambikapur, Tahsil and District Surguja (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through Secretary, Revenue Department, D.K.S. Bhawan, Raipur, District Raipur (C.G.)
2. Collector, Ambikapur, District Surguja (C.G.)
3. Nazul Officer, Surajpur, District Surguja.
4. Poonamchandra Agrawal, S/o Ramkishan Das Agrawal,
5. Smt. Kaushilya Devi, Wd/o Ramkishan Das Agrawal,
6. Jawaharlal, S/o Ramkishun Das Agrawal,
7. Ramlal Agrawal, S/o Ramkishun Das Agrawal,
8. Roopam Agrawal, S/o Ramkishun Das Agrawal,

All above R/o Poonam Traders, New Bus Stand, Ambikapur, District Surguja (C.G.)

9. Smt. Manbhawati Devi, Wd/o Omprakash Agrawal,
10. Brijmohan Agrawal, S/o Omprakash Agrawal,
11. Bajranglal Agrawal, S/o Omprakash Agrawal,
12. Sushil Agrawal, S/o Omprakash Agrawal,

All above respondent No.9 to 12 are R/o Bhawani Traders, Sadar Road, Ambikapur, Distt. Surguja (C.G.)

13. Ram Awatar Agrawal, S/o Jagannath Prasad Agrawal, Near Hanuman Mandir, School Road, Ambikapur (C.G.)
14. Rambilas Agrawal, S/o Jagannath Prasad Agrawal, R/o Babupara, Ambikapur, Tahsil & District Surguja (C.G.)

---- Respondents

For Petitioners:	Mr. Manoj Paranjpe and Mr. Prasoon Agrawal, Advocates.
For State/Respondents No.1 to 3: -	Mr. Gary Mukhopadhyay, Dy. Govt. Adv.
For Respondents No.4 to 8:	Mr. B.D. Guru, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

31/07/2017

1. Jagarnath Agrawal sold suit land in favour of petitioners Anupam Kumar Agrawal and Deepak Kumar Agrawal by registered sale deed dated 21-9-1999. The said sale deed was sought to be cancelled by filing Civil Suit No.15A/2002 by Smt. Kaushilya Devi and four others. The said civil suit was dismissed by the trial Court on 25-10-2004 and that judgment and decree has attained finality has that has not been challenged. The Board of Revenue by order dated 17-5-2006 directed that in light of the judgment and decree, names of the petitioners be recorded in the revenue records which the Nazul Officer has complied on 7-8-2006 which was assailed before the Additional Collector and the Additional Collector set aside the order of mutation which was upheld by the Board of Revenue against which this writ petition has been preferred.
2. Learned counsel for the petitioners would submit that once the petitioners have purchased the suit property by registered sale deed and civil suit seeking cancellation of sale deed has already been dismissed by the civil court, the petitioners are entitled to get their names mutated in absence of judgment and decree having been set aside by the appellate court at the instance of the respondents and therefore the impugned order deserves to be set aside.

3. Learned counsel for respondents No.4 to 8 would submit that in view of paras 34 and 35 of the judgment and decree dated 25-10-2004, the Board Revenue and the Additional Collector are justified in setting aside the order of the Nazul Officer.
4. The fact remains that the petitioners are purchasers of the suit land by registered sale deed from Shri Jagarnath Agrawal who is the power of attorney holder. Legality of that sale deed was questioned and the said sale deed was sought to be cancelled by the civil court which has been dismissed and therefore on the basis of registered sale deed, the petitioners are entitled to get their names mutated.
5. In the matter of **Ramti Devi (Smt) v. Union of India**¹, Their Lordships have held that until the registered sale deed is valid and pending between the parties and unless it is avoided or cancelled within the period of limitation, it remains valid and binds the parties.
6. Thus, the petitioners having become owners of the suit property by registered sale deed and the sale deed though sought to be cancelled, but the jurisdictional civil court has dismissed the suit seeking cancellation of sale deed, I find no reason for not recording the names of the petitioners in the revenue records by virtue of sale deed and the suit of cancellation having been dismissed, as admittedly, appeal challenging the said judgment and decree has not been preferred.
7. For the foregoing reasons, the order passed by the Additional Collector as upheld by the Board of Revenue is set aside and the order of the Nazul Officer recording the petitioners' name is upheld.

¹ (1995) 1 SCC 198

8. The petition is allowed to the extent sketched herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma