

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 1434 OF 2016

1. Dilip Kumar Jaiswal, S/o Late Toranram Jaiswal, aged about 45 years, Caste- Kalar.
 2. Satyendra Kumar Sahu, S/o Late Balmukund Sahu, aged about 36 years, Caste- Teli.
- Both are R/o Village Amne, Police Station Kota, Civil and Revenue District- Bilaspur (C.G.)

... Petitioners

Versus

1. Smt. Usha Bai Chipde, W/o Late Shri Anand Rao Chipde, aged about 77 years, R/o Opp. Jain Temple, Main Road, Sarkanda, Police Station Sarkanda, District Bilaspur (C.G.)
2. Akash Kumar Sharma, S/o Sushil Kumar Sharma, aged about 38 years, present address G-34, Nutan Colony, Sarkanda, Police Station- Sarkanda, District Bilaspur (C.G.)

... Respondents

For Petitioners : Mr. Dharmesh Shrivastva, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02/01/2017

1. The present petition under Section 482 of CrPC has been filed by the Petitioners assailing the order dated 5.11.2016 passed by the Sixth Additional Sessions Judge, Bilaspur in Criminal Revision No. 23 of 2016.
2. Vide said order dated 5.11.2016, the Revisional Court has rejected the order passed by the Judicial Magistrate First Class, Kota on 3.12.2015 in Complaint Case No. J695 of 2015 whereby the Magistrate had ordered for registration of the offence under Sections 420, 467, 471/34 of IPC against the Respondents herein.
3. Facts of the case in brief are that a dispute revolves around the property situated at Village Amne in Patwari Halka No. 12/30, Khasra No. 127, measuring 1.90 acre. According to the present Petitioners, it is a case where Respondent No.1 herein had entered into an agreement of sale of the said property for the sale consideration of Rs.50,000/- in the year 1996. By virtue of the said agreement to sale, the present Petitioners is said to have come in

possession over the said property. However, subsequently it is learnt that Respondent No.1 has sold the said property also to Respondent No.2.

4. It is alleged by the Counsel for the Petitioners that the sale of the said property made by Respondent No.1 in favour of Respondent No.2 was by tampering with the records so far as the possession of the property is concerned in the revenue records particularly, the map prepared by the local Patwari.

5. On a specific query being put to the Counsel for the Petitioners, he does not dispute the fact that the original owner of the said property still was Respondent No.1 and that the only transaction which the Petitioners had with Respondent No.1 was an agreement to sale entered into in the year 1996, but the said agreement to sale did not culminate in the transfer of title by any registered deed or registered sale deed being executed in favour of the Petitioners by Respondent No.1.

6. In the given facts and circumstances of the case, for all practical purposes, in the opinion of this Court, the title holder of the said property continued to be the Respondent No.1 and not the present Petitioners who may have been in possession of the said property. Mere possession of the property cannot establish title over the property. The Petitioners have not shown any document whereby the right has been created so far as the title/ownership of the said property in favour of the Petitioners. Neither have they instituted any suit for specific performance for getting the agreement to sale with Respondent No.1 executed.

7. In the given facts and circumstances of the case, this Court does not find any illegality in the order passed by the Revisional Court on 5.11.2016. The present petition thus being devoid of merits, is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge