

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 198 of 2017**

- Dhansay Kewat S/o Late Shri Kartikram Kewat, Aged About 82 Years R/o Village Hasuwa, Thana Gidhouri, Tahsil Kasdol, Civil & Revenue Distt. Balodabazar Bhatapara, (Chhattisgarh)

---- **Petitioner****Versus**

- Prabhudayal Kesharwani S/o Shri Indrajeet Kesharwani, Aged About 65 Years R/o Village Hasuwa, Thana Gidhouri, Tahsil Kasdol, Civil & Revenue Distt Baloda Bazar Bhatapara, (Chhattisgarh)

---- **Respondent**

For Petitioner : Shri Sunil Sahu, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

10/03/2017

1. Petitioner is the judgment debtor, who is suffering a decree for possession. The trial Court has rejected his application under Section 151 CPC for demarcation of the suit land/decreetal land so that the decree holder obtains possession of the land involved in the decree and not any other area which the petitioner occupies in the adjoining plot. It goes without saying that a decree holder is entitled to possession only that much area which is covered in the decree. The executing Court has rightly observed that the parties never applied for demarcation during pendency of the suit, therefore, there is no issue about the identity or location of the suit land which would require its

demarcation.

2. Applying its earlier decision in **Surya Dev Rai Vs. Ram Chander Rai**¹ and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**², the Supreme Court in the matter of **Sameer Suresh Gupta through PA Holder Vs. 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 certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329

3 (2013) 9 SCC 374

conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

3. Considering the fact that the decree passed in the year 2003 is pending execution for last more than 13 years any further delay would occasion failure of justice, therefore, entertaining this writ petition would amount to giving premium to the dilatory tactics adopted by the judgment debtor.
4. There is no substance in this writ petition. It fails and is here by dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Ashu