

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURREVP No. 183 of 2013

1. Chiatram S/o Late Lachhinder, Aged About 55 Years R/o Village Mulmula, Thana, Tahsil And Distt. Kondagaon, Chhattisgarh
2. Ratiram S/o Late Lachhinder, Aged About 52 Years R/o Village Mulmula, Thana, Tahsil And Distt. Kondagaon, Chhattisgarh
3. Ratilal S/o Late Lachhinder, Aged About 48 Years R/o Village Mulmula, Thana, Tahsil And Distt. Kondagaon, Chhattisgarh
4. Baldeo S/o Late Lachhinder, Aged About 45 Years R/o Village Mulmula, Thana, Tahsil And Distt. Kondagaon, Chhattisgarh

---- Petitioners

Versus

1. Board Of Revenue Gwalior, Through Its Chairman (Now Raipur) Chhattisgarh
2. The Commissioner, Bastar Division, Jagdalpur, Chhattisgarh
3. The Additional Collector, Jagdalpur, District Bastar, Chhattisgarh
4. The Additional Collector Kanker Distt. Kanker, Chhattisgarh
5. The Sub Divisional Officer (Revenue), Kondagaon, Chhattisgarh
6. Baisakhu (Died And Deleted)
7. Lachhinder (Died) Through Lrs
7 . (A) Deleted (Chamrin) Female Age - 0 As Per Honble Court Order Dated 04.05.2017
7 . (B) Navlu Male Age - 25 S/o Late Shri Lachhinder, R/o Chimpaband, Tahsil Kondagaon, Distt. Bastar, Chhattisgarh
8. Laxman S/o Samnath Gond, R/o Chimpaband, Tahsil Kondagaon, Distt. Bastar, Chhattisgarh

---- Respondents

For Petitioners:

For Respondent No. 2 to 5:

For Respondents No. 7(b) & 8:

Shri Parag Kotecha, Advocate.

Smt. Shobha Kashyap, Dy. G.A.

Shri J. K. Shastri, Advocate.

Single Bench: Hon'ble Shri Sanjay Agrawal, J

Order On Board

24.08.2017

1. Heard.
2. This Review Petition has been preferred against the order dated 18.03.2013 passed by this Court in W. P. No. 850/2000 by which the petition filed by the petitioners has been dismissed.
3. Shri Parag Kotecha, Counsel for the petitioners submits that while dismissing the petition, the Court has misinterpreted the facts of the case as evidenced by Para 6 of the said order which reads as under :-

"As per submissions & documents, permission to sale the land to Lachhindar was granted under Section 165(6) of the Code to Pilu Gond; sale-deed has not been executed by Pilu in favour of Lachhindar, but it was in the name of sons of Lacchindar whom permission to sale was not granted by the competent authority, therefore, in absence of any valid permission to sale the land, no title has been passed to present petitioner on the basis of alleged sale-deed, by passing the order impugned the Commissioner has not committed any illegality requiring any interference in exercise of Article 227 of the Constitution of India."

4. Based upon the aforesaid facts, Shri Kotecha submits that the alleged sale deed was executed in favour of Lacchindar on 02.05.1967 (Annexure A-2) and not in favour of his sons as observed by this Court in W. P. No. 850/2000. He submits further that since the order impugned has been passed on the basis of incorrect facts, therefore, deserves to be reviewed.
5. On the other hand, Shri J. K. Shastri, learned Counsel for Respondents No. 7(b) & 8 submits that though the sale deed was

executed in favour of Lacchindar and not in favour of his sons as pointed out by Shri Kotecha, but the permission was accorded by the Collector, Bastar for alienation of the suit property to Lacchindar's son. Therefore, intention of the Court by passing the order impugned was very specific and since the sale deed was executed in favour of the petitioner Lacchindar in violation of the said permission, in such circumstances, the order impugned does not suffer from its infirmity, so as to require to be interfered under the Review jurisdiction.

6. I have heard learned Counsel for the Petitioner and perused the entire record carefully.

7. The observations as made by this Court at Para 6 mentioned above would show that since the permission for alienation of the suit property to petitioner Lacchindar was obtained from the Competent Authority under Section 165(6) of the Chhattisgarh Land Revenue Court, 1959 by one Pilu but the alleged sale deed was executed in favour of his sons and by observing as such the petition was dismissed. However, the said observation while dismissing the writ petition was contrary to the facts available on record as the alleged registered deed of sale was executed in favour of the petitioner Lacchindar on 02.05.1967 (Annexure A-2) and not in favour of his sons as observed. In view of the said materials, the error is apparent on the face of the record, therefore, the order impugned, under such circumstances, deserves to be and is hereby reviewed.

8. Accordingly, the Review Petition is allowed. The order impugned passed by this Court on 18.03.2013 in W. P. No. 850/2000 is hereby set aside and the Writ Petition be restored to its original number i.e. W. P. No. 850/2000.

9. Registry is directed to list writ petition for further hearing before the appropriate Bench as per the prevailing roster.

Sd/-
Sanjay Agrawal
Judge

Nikita