

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 215 of 2017

1. Kevara Bai, W/o. Late Arvind Patel, Aged About 59 Years,
2. Ajay Patel, S/o. Late Arvind Patel, Aged About 29 Years,
3. Vivek Patel, S/o. Late Arvind Patel, Aged About 28 Years,
4. Ashish Patel, S/o. Late Arvind Patel, Aged About 22 Years.

All are R/o. Kotara Road, Behind Dashrath Pan Thela, Raigarh, Tahsil and Distirct -Raigarh, (Chhattisgarh)

----Petitioners

Versus

1. Smt. Peela Bai, Wd/o. Late Jodhiram, Aged About 73 Years, Occupation -House Wife.
2. Dhaniram Sahu, S/o. Late Jodhiram, Aged About 53 Years, Occupation -Labourer,
3. Komal Sahu, S/o. Late Jodhiram, Aged About 51 Years, Occupation- Labourer,

All are R/o. Near Chhatamuda Naka, Jute Mill, Raigarh, Tahsil and District- Raigarh, (Chhattisgarh)

---- Respondents

For Petitioners : Mr. Raghavendra Pradhan, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17/03/2017

1. Challenge in this petition is to the order dated 16.02.2017, passed by the learned First Civil Judge, Class-I, Raigarh, District – Raigarh, whereby an application filed by the legal representative of the judgment debtor that the decree which was passed do not describe the particulars of the property, therefore, in absence of identity it can not be executed. Therefore, the objection was raised in respect of the report of Patwari and against execution of decree but the same has been dismissed.

2. Learned counsel for the petitioner would submit that since the identification of the property itself is in doubt, as such the decree could not have been executed and the trial Court has passed an illegal order. It is further submitted that if in execution of decree, sale of frontal part of the property is done, then in such case, the petitioners would not be able to go to the other part of property which would fall behind the purchased property, therefore, the decree can not be executed.
3. Perused the documents filed along with the petition, which would show that judgment and decree for specific performance was passed on 24.07.1995 in respect of the suit land bearing Kh.No.121/6 and 121/7 situated at Village- Chhatamura, wherein half of it was directed to be sold by Arvind Kumar. The petitioners herein are the legal heirs of Arvind Kumar.
4. Perusal of the order would show that during the execution proceeding such objection has been raised in the year 2017. Admittedly as appears the judgment and decree is not under challenge and now efforts have been made only to defeat the execution of a decree, which was passed in the year 1995. The petitioners, if were aggrieved by the judgment and decree, they could have challenged the same immediately and at this stage this Court can not go behind the judgment and decree after lapse of 22 years specially when the executing Court has accepted the demarcation of property made by Patwari. The objection made virtually to defeat the fruits of decree at this belated stage is uncalled for.

5. Taking into the fact and further after going through the order, in my considered opinion no jurisdictional error has been committed or it can be stated that it is a case where the Court has exceeded the jurisdiction vested in it by law. Consequently I am of the opinion that this is not a case where the power Article 227 of the Constitution of India is to be invoked.
6. Accordingly, the petition has no merit and is dismissed at admission stage itself.

Sd/-
(Goutam Bhaduri)
Judge