

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (227) NO. 196 OF 2017

Sudhir Mandal S/o Late Vishvnath Mandal Aged About 60 Years R/o Village Subash Nagar, Ambikapur, Police Station-Gandhinagar, Tahsil-Ambikapur, District-Sarguja (C.G.)

... Petitioner

Versus

1. Sunil Viswas S/o Late Judan Aged About 50 Years R/o Village-Nehru Nagar, Police Station-Gandhi Nagar, Tahsil Ambikapur, District-Sarguja (C.G.)
2. Prafull Viswas W/o Late Judan Aged About 70 Years R/o Village-Nehru Nagar, Police Station-Gandhi Nagar, Tahsil Ambikapur, District-Sarguja (C.G.)
3. Budhdev S/o Late Judan Aged About 45 Years R/o Village-Nehru Nagar, Police Station- Gandhi Nagar, Tahsil Ambikapur, District- Sarguja (C.G.)
4. Smt. Savitri Mandal W/o Subash Mandal Aged About 27 Years R/o Village- Nehru Nagar, Police Station- Gandhi Nagar, Tahsil Ambikapur, District- Sarguja (C.G.)
5. State Of Chhattisgarh Through- Collector- Ambikapur, District- Surguja (C.G.)
6. Amrit Mandal S/o Sudhir Mandal Aged About 35 Years R/o Village-Nehru Nagar, Police Station- Gandhi Nagar, Tahsil Ambikapur, District- Sarguja (C.G.)

... Respondents

For Petitioner	:	Mr. R.K. Bhagat, Advocate.
For Respondent No.5	:	Mr. Prafull Bharat, Addl. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/03/2017

1. The present writ petition under Article 227 of the Constitution of India has been filed Petitioner to exercise the supervisory jurisdiction against the order dated 10.1.2017 (Annexure P-1) passed by the Illrd Additional District Judge, Ambikapur (Surguja) in Misc. Civil Appeal No. 10 of 2015 as also the order dated 1.8.2014 passed by the IInd Civil Judge, Class-II, Ambikapur, in Civil Suit No. 25-A/2014.
2. Vide the aforesaid two orders, the Courts below have rejected the application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure filed by the Petitioner-Plaintiff in a suit for declaration as also for a relief of declaring the sale deed executed to be null and void.

3. This Court in exercise of its supervisory jurisdiction does not find any error of law to have been committed on the part of the two Courts below while passing the said two orders. It is settled law that while exercising the powers under Article 227 of the Constitution of India, this Court would not sit as an appellate authority over the order passed by the Court below. The two Courts below have given specific reasons for rejecting the application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure.

4. It is a settled position of law that while exercising the powers under Article 227 of the Constitution of India, all that this court has to see is whether the order passed by the Court below was within its powers conferred upon it and that it is not in excess of the jurisdiction conferred upon the Court. This Court does not find either of the ground available to the Petitioner to assail the said impugned orders. Further, the Courts below have also while rejecting the application given the reasons and have discussed the contentions raised by the Petitioner in the application.

5. It is also as well settled principle of law that this Court, in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, should refrain itself from interfering with the order passed by the Court below, except in such cases where perversity, illegality, irregularity or jurisdictional error is writ large on the face of the record, which is not there in the present case.

6. Accordingly, the present writ petition being devoid of merits the same stands dismissed. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge