

HIGH COURT OF CHHATTISGARH, BILASPUR**MA No. 31 of 2015**

- Raghvendra Das Vaishnav S/o Late Narendra Das Vaishnav Aged About 43 Years, Business – Builders, Proprietor Homeplus Builders, R/o Anushtha Residency Colony, Junwani, Tehsil And District, Durg, Chhattisgarh

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1. Premlal Sahu S/o Late Bodhan Sahu Aged About 70 Years, Caste – Sahu, Occupation – Agriculture, R/o Village- Junwani, P.H. No. 15, Tahsil And District- Durg, Chhattisgarh
2. State of Chhattisgarh Through Collector / Ex. Officio Secretary, Durg District Durg, Chhattisgarh
3. Deputy Registrar, O/o Registrar, Near Tahsil Office, Durg, Tahsil And District- Durg, Chhattisgarh
4. Deputy Director Town And Country Planing Department, First Floor, Jila Panchayat Building, G.E. Road Durg, Tahsil And District-Durg, Chhattisgarh
5. Tehsildar Office Of Tehsil Durg, District Durg, Chhattisgarh
6. Devesh Dakliya S/o Naresh Dakliya Aged About 23 Years, Caste Jain, Occupation Business, R/o Sadar Bazar Rajnandgaon, Tehsil And District Rajnandgaon, Chhattisgarh
7. Naresh Dakliya S/o Jivanchand Dakliya Aged About 48 Years, Caste – Jain, Occupation Business, R/o Sadarbazar, Rajnandgaon, Tehsil And District Rajnandgaon, Chhattisgarh

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For Appellant	:	Shri Alok Bakshi, Advocate
For Respondent No.1	:	Shri H.B. Agrawal, Sr. Adv. With Ms. Preeti Yadav, Advocate
For Respondents No.6 & 7	:	Shri Abhijeet Mishra, Advocate
For Respondents/State	:	Shri Ashutosh Pandey, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****20/09/2018**

1. Heard.
2. The present appeal is against the order dated 22.12.2014 passed by the 6th Additional District Judge, Durg (C.G.) in Civil Suit No.32A/2013.
3. Learned counsel for the appellant submits that an agreement was executed with respondent No.1 for purchase of certain land and an amount of Rs.51000/- was paid as advance and thereafter the appellant started developing certain land bearing Khasra No.58/1 which was reserved for EWS and garden and said lands were subsequently sold to respondents No.6 & 7. Learned counsel for the appellant submits that if the further alienation with the suit property is made, it will lead to multiplicity of the proceedings, therefore, the impugned order may be set aside.
4. Perusal of the order would show that the suit for which the specific performance has been filed for purchase of a property an agreement in between respondent No.1 Premlal Sahu and the plaintiff/appellant was executed. The trial Court has recorded that prior to filing of the suit, a part of the property was already sold to the added respondents who are respondents No.6 & 7. The trial Court further observed that though the suit was based on an agreement dated 19.06.2000, the original agreement was not placed on record. In any case, if the finding is that the said property has already been sold prior to the filing of the suit, in absence of any injunction claimed as against respondents No.6 & 7, by which

the impugned application was decided, it will be entirely futile to go into the merits of this case to explore the facts. Prima facie the order shows that the subject property has already been sold to respondents No.6 & 7 and injunction order has not been specifically claimed against the respondents which were not originally added party before the Court. Therefore, in absence of any such prayer any restraint order cannot be passed against the subsequent added parties. The order of the Court below further records that respondent No.6 is the bona fide purchaser and has acquired the possession of land. The fact whether he is the bona fide purchase or not, who purchased the same in the year 2008, injuncting him to enjoy the property in the year 2014 will lead to irreparable loss and the balance of convenience do not lie in favour of the plaintiff. Under the circumstances, I do not find any merit in this appeal. It is accordingly dismissed. If the proceedings are not concluded before the Court below, the appellant/plaintiff shall be at liberty to file duly constituted afresh application as against respondents No.6 & 7, if so advised.

Sd/-

Goutam Bhaduri
Judge

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