

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 141 of 2018**

- Hemant Kumar Sahu S/o Jhumuk Sahu Aged About 53 (47) Years, R/o Village Rewadih Post Pendry Tahsil And District Rajnandgaon Chhattisgarh

---- Petitioner**Versus**

- Ajay Gyanchandani S/o Late Shri Bisan Das Gyanchandani Aged About 51 (45) Years , Caste Sindhi R/o Lalbag Sindhi Colony Post Rajnandgaon Tahsil And District Rajnandgaon Chhattisgarh.

---- Respondent

For Petitioner : Shri P.K.C. Tiwari, Sr. Adv. with Shri Shashi
Bhushan Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****19/02/2018**

1. Heard.
2. The default as pointed out by the Registry is ignored.
3. The present petition is against the order dated 23.01.2018 passed by the First Additional District Judge, Rajnandgaon, whereby the application filed by the judgment debtor making a prayer to grant time to make the payment of decretal amount by installments and/or to attach and sale of the property for payment of decretal amount, has been rejected.
4. Learned counsel for the petitioner would submit that an application was filed by the decree holder on 04.12.2017, wherein a prayer was made for grant of installments for payment of the decree and/or attachment of the immovable

property of the judgment debtor and recover the amount, but the same has been dismissed without any hearing. He would further submit that the trial Court ought to have given the opportunity of hearing to the petitioner, therefore, the order rejecting the said application is illegal and cannot be sustained.

5. Perused the documents filed along with the petition as also the application.
6. The facts of this case would reveal that a decree for an amount of Rs.10,61,000/- was passed along with the interest of 6% p.a. against the petitioner/judgment debtor on 25.02.2014. The Court has observed that the judgment debtor prior to this has sold the part of the property to Anita Bagga by a sale deed dated 31.03.2011 for a sale consideration of Rs.6,08,000/- and the rest of the land was again sold to Anita Bagga on 07.03.2014 for an amount of Rs.21,80,000/-, therefore, it appears that after passing decree on 25.02.2014 the sell was made and no payment to discharge the liability was made. Even otherwise, it appears that right to claim installment cannot be claimed as a matter of right. Considering the background of this case that the trial Court has rightly observed that even after passing of the decree the sell of land was made for an amount of Rs.21,80,000/- and non-payment of the decretal amount by the petitioner shows lack of bona fide. Considering this fact, I do not find any reason to interfere with the order dated 23.01.2018.
7. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge