

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 282 of 2018

Rajdeepak Pandey S/o. Shri Radheshyam Pandey, Aged 39 years, R/o.
Village Beldahara, Tahsil Nawagadh, District Bemetara (C.G.)

---- Appellant
Plaintiff

Versus

1. Sudarshan Lal Sahu S/o. Shri Phirtu Sahu, Aged 53 years,
2. Sundarlal Sahu, S/o. Shri Phirtu Sahu, Aged 46 years,
3. Seetaram Sahu S/o. Shri Santram Singh Rajpur Aged 22 years,

All above three are resident of village Pratappur, Tahsil and Police Station
Nawagadh, District Bemetara (C.G.)

4. State of Chhattisgarh, Through Collector, Bemetara (C.G.)

----- Respondents
Defendants

For the Appellant	:-	Mr. Viprasen Agrawal, Advocate
For the Respondent No.4	:-	Mr. Anand Dadariya, Govt. Advocate

Shri Justice Prashant Kumar Mishra
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board By
Prashant Kumar Mishra, J.

06.10.2018

1. This is plaintiff's appeal challenging the judgment and decree passed by the trial Court dismissing the suit for declaration of the sale deed dated 27.06.2014, executed by the defendant No. 1 and 2 in favour of the defendant No. 3 as null, void and without authority as also to restrain the defendants No. 1 to 3 by issuance of permanent injunction from alienation of the suit property.

2. The plaintiff and defendant No. 1 and 2 entered into an agreement on 13.05.2013 for sale of land bearing khasra No. 232/6 and 234 areas 0.230 and 0.190 hectare respectively, total area 0.420 hectare situated at village Pratappur, Tahsil Nawagarh, Patwari Halka No. 1, District Bemetara. The defendant Nos. 1 and 2 received the entire sale consideration of Rs. 5,32,000/- on the date of agreement and agreed to execute the sale deed within one month. However, instead of executing the sale deed in favour of the plaintiff, the defendant Nos. 1 and 2 executed a sale deed and got it registered on 27.06.2014 alienating the suit property in favour of defendant No.3 Seetaram Sahu.
3. According to the plaintiff, as long as the agreement was subsisting and was not cancelled by the defendant Nos. 1 and 2, they had no authority to execute the sale deed in favour of defendant No. 3.
4. The defendant Nos. 1 and 2 denied to have executed the sale agreement. They would state in their written statement that their signatures were obtained on blank stamp paper, therefore, they were not required to cancel a non existing agreement and they being title holder to the property are entitled to execute the sale deed in favour of any other person. The defendant No. 3 raised plea of bonafide purchaser.
5. Although the trial Court has decided the suit after a full blown trial, in our considered opinion, the suit itself was wrongly framed without there being any entitlement in favour of the plaintiff to seek permanent injunction or to challenge the sale deed executed by defendant Nos. 1 and 2 in favour of defendant No.3.
6. We say so because a prospective purchaser can maintain a suit of this nature only when he seeks a relief for specific performance of the

agreement. In such a suit, if the Court decides to issue a decree in favour of the plaintiff directing the defendant for specific performance of the agreement by executing the sale deed, subsequent prayer for declaration of sale deed as null and void or for issuance of permanent injunction against the defendant can be issued. However, in the absence of the basic prayer for specific performance being made in the plaint, there was no entitlement in favour of the plaintiff to seek two other reliefs which were dependent on the first relief for specific performance of the agreement.

7. The trial Court has found that the plaintiff has failed to prove execution of the agreement, however, as discussed above, even if the agreement is found to be validly executed between the parties, in the absence of any prayer for specific performance of the agreement, two other reliefs can not be allowed in favour of the plaintiff.
8. The trial Court has not committed any error in dismissing the suit and therefore, the appeal being bereft of any substance it deserves to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Sd/-

Judge

Vimla Singh Kapoor