

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 492 of 2018

Abhishek Naidu S/o Late Dr. T.S.R. Naidu, Aged About 37 Years R/o
Nehru Nagar, Bilaspur, Tahsil And District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Sanjay Rajput S/o Late Shri Tan Singh, Aged About 40 Years R/o Daupara, P.S. Mungeli District Bilaspur Now District Mungeli (Chhattisgarh)
 2. Smt. Vibha Singh, W/o Ajay Singh Thakur, Aged About 30 Years R/o Nirala Nagar, Old Bus Stand, Bilaspur (Chhattisgarh)
 3. Thakur Ajay Singh S/o Bahoran Singh Thakur, Aged About 35 Years R/o Nirala Nagar, Old Bus Stand, Bilaspur Chhattisgarh
 4. State Of M.P. Now Chhattisgarh, Through Collector, Bilaspur Chhattisgarh
 5. Smt. Shashikala Naidu W/o Late Dr. T.S.R. Naidu, Aged About 69 Years
 6. Rachna Naidu, D/o Late Dr. T.S.R. Naidu, Aged About 42 Years,
 7. Deepshikha Naidu, D/o Late Dr. T.S.R. Naidu, Aged About 44 Years,
 8. Meena Naidu, D/o Late Dr. T.S.R. Naidu, Aged About 46 Years, The respondents No.5 to 8 R/o Nehru Nagar, Bilaspur, Tahsil And District Bilaspur Chhattisgarh
 9. Kamlesh S/o Late Ramnath, Aged About 55 Years,
 10. Kaushlesh S/o Late Ramnath, Aged About 50 Years,
 11. Akhilesh S/o Late Ramnath, Aged About 48 Years,
 12. Santosh S/o Late Ramnath, Aged About 45 Years,
 13. Amit S/o Late Ramnath, Aged About 36 Years,
- The respondent No.9 to 13 are R/o Gandhinagar, Kududand, District Bilaspur Chhattisgarh
14. Smt. Pushpa W/o Rajkumar, D/o Late Ramnath, Aged About 40 Years R/o Allahabad (Nainy), Uttar Pradesh Tahsil And District Allahabad (Uttar Pradesh)
 15. Smt. Sushma W/o Takhisen, D/o Late Ramnath, Aged About 38 Years R/o Gajiyabad District Gajiyabad (Uttar Pradesh)
 16. Smt. Yashoda Devi W/o Ramnath, Aged About 52 Years Occupation House Wife, R/o Gandhinagar, Tahsil And District Bilaspur (Chhattisgarh)

---- Respondents

For petitioner - Shri Vineet Kumar Pandey, Advocate.
For State- Shri Suryakant Mishra, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

18/06/2018

Heard.

1. Instant petition is against the order dated 3/05/2018 whereby an application preferred under Order 7 Rule 14 of CPC wherein certain documents were sought to be produced by the plaintiff were dismissed.
2. Learned counsel for the petitioner would submit that suit was filed by the petitioner and other plaintiffs for declaration and permanent injunction. Said suit was originally filed by T.S.R. Naidu and after his death his son was brought on record, the present petitioner herein. It is contended that the cooperative society has allotted land to the petitioner's father and after death of father of the petitioner documents could be recovered from old file and were filed in the court which are just and necessary. It is contended that few of the documents i.e. sale deed, name of the persons of Harijan Grih Nirman Samiti, copy of the cash book of Harijan Grih Nirman Samiti and the allotment order which was passed by the Harijan Grih Nirman Samiti for allotment of the house no. 8 and 9 to take possession would be most relevant. It is stated that in the facts of this case and in absence of these documents right to lead evidence would be jeopardized and truth will not come to fore. Therefore, said documents may be taken on record so as to adjudicate the case on merits.
3. Perused the order. Order shows the nature of the documents which were disallowed by the court below. One of the documents shows that it is (1) sale deed of khasra no.406 admeasuring 1.07 acres which is numbered in Sr. No.2 wherein land is said to be sold by Tansingh to Harijan Grih Nirman Samiti by sale deed dated 2/05/1978 is in original. (2) Another document which is listed at Sr. No.4 shows that it contains original documents of newly elected members of Harijan Grih Nirman

Samiti which is also in original. (3) The another document of cash book listed at Sr. No.5 of Harijan Grih Nirman Samiti dated 13/04/2007. (4) Another document dated 31/01/98 of Harijan Grih Nirman Samiti whereby copy of the sale deed sought to be taken on record. (5) Another document dated 13/01/1997 listed at Sr. No.7 is with respect to the order dated 13/01/1997 which purports that order was passed by the SDO in between Tansen Vs. T.S.R. Naidu and also (6) the order dated 10th June, 1999 listed at Sr. No.8 in between Tansen Vs. T.S.R. Naidu passed by the Additional Commissioner, Bilaspur and (7) lastly documents No. 9 and 10 with respect to get possession of house No.8 and 9 and (8) serial No.11 document shows that it is a demarcation report of khasra Nos.406/1 to 406/12. Rejection of these document to record appears to be on the ground that documents were not produced for last 10 years and documents have been placed after evidence of one Akhilesh Kirti who is plaintiff's witness.

4. Perused the plaint. Perusal of the plaint would show that declaration is sought alongwith injunction in respect of aforesaid plots claiming relief that plaintiff is the owner in possession in respect of the plot comprised in khasra No.406 admeasuring 1.07 acres and they have purchased the plot/land for consideration. Perusal of the plaint as compared to document would show that nature of the documents would be pertinent to decide the lis. If on the technical ground documents are thrown out of the court then very nature of the lis will be decided without evidence though allotment and demarcation report exists on respect of same issue. Taking into nature of the documents sought for documents placed at Sr. No.2 i.e. sale deed of khasra No.406 admeasuring 1.07 acres transaction in between Tansingh and Harijan Grih Nirman Samiti dated 2/05/1978, thereafter the documents placed at Sr. No.4 shows

name of the office holders of Harijan Grih Nirman Samiti which is filed in original, thereafter the document shown in Sr. No.5 i.e. cash book of Harijan Grih Nirman Samiti and copy thereof dated 13/04/2007, the Document at Sr.No.6 i.e. sale deed dated 31/01/98 which shows transaction of sale of khasra No.406 admeasuring 1.07 acres, thereafter the document placed at Sr. No.7 i.e. order of SDO dated 13/01/1997 and further document of Additional Commissioner dated 10th June, 1999 in between Tansen Vs. T.S.R. Naidu and further the document placed at Sr. No.9 whereby Harijan Grih Nirman Samiti has given permission to take possession of House No.8 and lastly the document at Sr. No.10 whereby permission has been given to T.J.R. Naidu to take possession of House No.9. Demarcation report of khasra No.406/1 to 406/12 appears to be relevant for just decision of the case on merits. If documents are not accepted on record it will lead to multiplicity of the proceeding and again other issue will be continued during the course of appeal and subsequent proceeding. Taking into facts of this case, documents described above are allowed to be accepted in the case subject to the payment of cost of Rs.2000/- to the defendant/respondent. It is further made clear that this court has not observed anything about admissibility of the documents at this stage it will be subject to the proof by the plaintiff during the course of trial as per the Evidence Act.

5. With such observation, petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE