

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 89 of 2018**

Budh Ram, S/o Shri Chamru Singh, Aged About 63 Years, Caste Kanwar (Manjhi), R/o Jogipali (Rampur) Tahsil-Katghora, District Korba, Chhattisgarh.

---- Applicant

Versus

1. Jagdish Prasad, S/o Ramphal, Aged About 60 Years, Caste-Agrawal, Tahsil & Thana Sakti District Janjgir- Champa, Chhattisgarh.
2. Dadu Ram, S/o Shri Butari Ram, Aged About 69 Years, Caste-Sidar (Gond), R/o Kanchanpur, Tahsil & Thana Sakti District Janjgir- Champa, Chhattisgarh.
3. Pik Ram, S/o Shri Thakur Ram, Aged About 62 Years, Caste-Gond, R/o Amaldiha, Tahsil & Thana Sakti, District Janjgir-Champa, Chhattisgarh.
4. State of Chhattisgarh, Through Collector, District Janjgir Champa, Chhattisgarh.

---- Non-Applicants

For Applicant	: Shri Ankit Singhal, Advocate.
For State/Non-Applicant No. 4	: Shri V. B. Singh, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****17.07.2018**

1. This revision has been preferred under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') questioning the order dated 25.05.2018 passed by the Civil Judge Class-I, Sakti, District Janjgir-Champa in Civil Suit No. 17-A/2010, by which, the trial Court while entertaining the Issue No. 5 has held that

the Court has jurisdiction to entertain the suit as instituted by the plaintiff claiming declaration of title based upon the registered deed of sale executed in his favour on 22.09.2007 by defendant No. 3, Pik Ram.

2. Shri Ankit Singhal, learned counsel for the applicant, submits that the order impugned as passed by the trial Court holding that the Court below has jurisdiction to entertain the suit is apparently contrary to law. He submits further that the defendant No.1, Budh Ram has initiated the proceedings as per the provisions prescribed under Section 170-B of the Chhattisgarh Land Revenue Code 1959, (hereinafter referred to as 'Code, 1959'), therefore, the suit is specifically barred by jurisdiction under Clause L-1 of Section 257 of the Code, 1959. He submits further that without considering the said legal position in its proper manner, the trial Court has committed an illegality in deciding the said issue observing that the Court has jurisdiction to entertain the suit.

3. I have heard the learned counsel for the applicant and perused the relevant papers annexed with this revision petition.

4. The plaintiff has instituted a suit claiming declaration of title and confirmation of possession by submitting, inter-alia, that he purchased the property in question from defendant No.3, Pik Ram, on the strength of the registered deed of sale dated 22.09.2007 which was executed and registered in his favour only after obtaining the due permission from the Collector, Janjgir-Champa, vide order dated 15.09.2007 passed in Revenue Case No. 31-A-21/2006-2007. Further examination of the plaint averments would show that the defendant No.1, Budh Ram had earlier sold the property in question to defendant No.2, Dadu Ram by executing a registered deed of sale dated 08.09.1995 and when the said defendant has failed to obtain the revenue papers recorded in his

name on the strength of the said registered sale, the suit for declaration of title was filed by him before the Competent Civil Court where it was registered as Civil Suit No. 36-A/2004. The said suit was decreed ex parte vide judgment and decree dated 24.06.2006 and prior to the delivery of the said ex parte decree, the said defendant No. 2, Dadu Ram sold the suit property to defendant No. 3, Pik Ram by executing a registered deed of sale dated 01.02.1999 and in turn, the said defendant sold it to the plaintiff by executing the alleged registered deed of sale dated 22.09.2007.

5. Further examination of the plaint averments would show that the said ex parte judgment and decree as delivered on 24.06.2006 was set aside vide order dated 06.02.2010 in MJC No. 05/2007. Be that as it may, prima-facie it shows that the plaintiff has acquired valid right, title and interest over the suit property by virtue of the registered deed of sale dated 22.09.2007, purported to have been executed by defendant No.3, Pik Ram in his favour. Pertinently to be noted here that the vendor of the plaintiff, i.e., Pik Ram has not initiated any proceedings under Section 170-B of the Code, 1959, therefore, at the instance of defendant No. 1, Budh Ram, it cannot be said that the suit as framed is barred by jurisdiction under Clause L-1 of Section 257 of the Code, 1959. In such an eventuality, it cannot be said at this stage that the suit as framed is barred by law, as contended by Shri Singhal. The order impugned, therefore, deserves to be and is hereby affirmed.

6. In view of the forgoing discussions, I do not find any substance in this revision. The revision petition is accordingly, dismissed. No order as to costs.

7. Before parting with the matter, it is made clear that this Court has not entered into the merits of the case and the trial Court would not be

influenced by any of the observations of mine while deciding this revision petition.

Sd/-

(Sanjay Agrawal)
Judge

Deepti Jha