

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 659 of 2018**

Bhuvneshwar @ Bhuneshwar, aged about 22 years, son of Shri Kanshiram Marar, R/o. Village- Kauwatal, Tahsil Kasdol, Distt. Baloda Bazar- Bhatapara (C.G.)

---- Petitioner**Versus**

1. Kanhaiya, aged about 28 years, son of Shri Kanshiram Marar, R/o. Village Kauwatal, Tahsil Kasdol, District : Baloda Bazar – Bhatapara (C.G.)Decree holder
2. Kanshiram, son of Shri Atmaram Marar, R/o. Village – Kauwatal, Tahsil Kasdol, Distt. Baloda Bazar – Bhatapara (C.G.)

(Judgment Debtor – since died on 06.05.2018 as per information given by Trial Court's counsel)

---- Respondents

For Petitioner	: Shri Pushpendra Kumar Patel, Advocate.
For Respondents	: None

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****21/08/2018**

(1) The suit filed by respondent No. 1/plaintiff – Kanhaiya Lal was decreed by the first appellate Court on 31.07.2014. Defendant/respondent No. 2 preferred second appeal thereagainst before this Court. This Court, vide order dated 12.04.2017, dismissed the second appeal.

(2) Thereafter, on 28.10.2017, present petitioner filed an application under Section 47 of the Code of Civil Procedure (henceforth "CPC") before the

Executing Court stating that petitioner is title holder and possession holder of the suit land. That application has been rejected by the Executing Court finding no merit, against which instant writ petition has been filed questioning the same.

(3) I have heard learned counsel appearing for the petitioner and perused the material available on record

(4) The petitioner has not filed any document either before the trial Court or before this Court showing that he is title holder and possession holder of the suit land. The original suit was filed in the year 2008 and decreed thereafter and after decision in the second appeal, only to obstruct the execution of the decree, application under Section 47 of the CPC appears to be have been filed, which has rightly been rejected by the Executing Court by the impugned order dated 23.04.2018. Thus, I do not find any illegality in the order impugned warranting interference of this court under Article 227 of the Constitution of India.

(4) For the reasons mentioned hereinabove, the petition being devoid of merit is liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

