

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Civil Revision No.97 of 2018**

Imran Malik son of late Soabuddin, aged about 60 years, Caste Musalman,
R/o. College Road Jashpur, District Jashpur (CG)

----Applicant**Versus**

1. Fasihujmka Khan son of late Masihujma Khan, aged about 65 years,
2. Rafique Hujma Khan, son of late Masihujma Khan, aged about 63 years,
3. Raisujma Khan son of late Masihujma Khan, aged about 57 years,
4. Anisujma Khan son of late Masihujma Khan, aged about 53 years,
No.1 to 4 are R/o. Village Jashpur, Tahsil and District Jashpur (CG)
5. Ishrat Ara D/o late Masihujma Khan, aged about 57 years, R/o. Village Gajiroad, Aurangabad, Near Masjid (Bihar)
6. Musharrat Ara D/o. Late Masihujma Khan, aged about 51 years, R/o. Poultry Farm Sahdol (M.P.)
7. Najhat Ara, D/o. Late Masihujma Khan, aged about 44 years, R/o. Village Sizuwa, Dhanbad, Post and District Dhanbad (Jharkhand)

---- Respondents

For Applicant : Mr.R.N.Jha, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****07/09/2018**

1. In a suit filed by the respondents/decreed-holder, the First Appellate Court in Civil Appeal No.12A/2015 on 4.2.2016 passed the decree in favour of decreed-holder for eviction of the property shown in schedule B of the plaint attached with decree. Thereafter, the applicant filed an application under Section 151 of the CPC before the trial Court that there is non-compliance of Order 7 Rule 3 and Order 20 Rule 3 of the CPC and decree is not identifiable. That application was rejected by the Executing Court on 1.3.2018 stating that there is full compliance of Order 7 Rule 3 and Order 20 Rule 3 of the CPC by the First

Appellate Court while passing the decree. After rejection of that application, the applicant/judgment debtor filed second application under Section 47 of the CPC stating that there is non-compliance of Order 7 Rule 3 and Order 20 Rule 3 of the CPC, which has been rejected by the Executing Court by the impugned order, against which, this civil revision has been filed.

2. Learned counsel for the applicant would submit that the order passed by the Executing Court is contrary to law. He would rely upon the judgments of the Supreme Court rendered in **Lakshmi Ram Bhuyan v. Hari Prasad Bhuyan & others¹ and Pratibha Singh & Another v. Shanti Devi Prasad & Another²**.
3. I have heard learned counsel for the applicant, perused the impugned order and others documents appended with the revision.
4. While deciding the first application under Section 151 of the CPC filed by the applicant/judgment debtor under Order 7 Rule 3 and Order 20 Rule 3 of the CPC on 1.3.2018, the Executing Court has clearly recorded a finding that there is sufficient compliance of Order 7 Rule 3 and Order 20 Rule 3 of the CPC and decree is identifiable and declined to accept the plea of the applicant that decree is not identifiable. That order has been allowed to become final. Thereafter, in order to avoid the decree another application under Section 47 of the CPC on the same ground that decree is not identifiable was filed by the applicant/judgment debtor, which has been rejected by the impugned order in view of the fact that suit property is clearly identifiable by making schedule B of plaint to be part of the decree. The finding of the Executing Court that decree is identifiable complying the requirement of Order 7 Rule 3 of the CPC

¹ 2003(1) C.G.L.J. 78

² 2003(1) C.G.L.J. 239

has attained finality. The Executing Court is absolutely justified in rejecting the application filed by the applicant which is only attempt by the applicant to frustrate fruits of decree of the Court passed way back on 4.2.2016.

5. I do not find any merit in this civil revision. Accordingly, the civil revision is dismissed with cost of ₹ 10,000/- payable to the respondents/decreed-holder. The trial Court is directed to execute the decree within three months from the date of receipt of certified copy of this order. A copy of this order be sent to the Executing Court.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-