

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 866 of 2018**

1. Urmila Yadav, W/o Manharan Lal, Aged about 77 years,
 2. Sanju Yadav, S/o Manharan Lal, Aged about 31 years,
- Both Resident of Kududand, Bilaspur, Tah. & Distt- Bilaspur (C.G.)

----Petitioners/plaintiffs**Versus**

1. Radheshyam Jaiswal, S/o Sukru Jaiswal (Not mentioned in cause title)
 2. Ahodhya, S/o Radheshyam Jaiswal,
- Both R/o Kududan, Shiv Chowk, P.S. Civil Line, Bilaspur, Tah. & Distt. Bilaspur
(C.G.) (Defendants No. 1 & 2)
3. State of Chhattisgarh, Through – Collector, Bilaspur, Distt. Bilaspur (C.G.)
(Defendant No. 3)

---- Respondents

For Petitioners : Shri Ravindra Sharma, Advocate.
For respondents : Shri Rahul Tamaskar, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****06/10/2018**

(1) Learned counsel appearing for the petitioner would submit that the trial Court has rejected the petitioner's application under Section 35 of the Indian Stamps Act for impounding the unregistered documents, which is in teeth of decisions rendered by the Supreme Court in the matters **of R.V.E. Venkatachala Gounder Vs. Arulmigu Viswesaraswami & V.P. Temple and another**¹, **Malay Kumar Ganguly Vs. Dr. Sukumar Mukherjee and others**² and this Court in the matter of **Shashank Shekhar Vs. Jagdish**

Prasad Saraf³

1 (2003) 8 SCC 752

2 (2009) 9 SCC 221

3 AIR 2017 Chhattisgarh 190

(2) I have heard learned counsel appearing for the petitioner and perused the order impugned with utmost circumspection.

(3) A careful perusal of the impugned order would show that the trial Court has rejected the application only on the ground that suit is for the mandatory injunction without considering the provisions contained in Section 35 of the Indian Stamps Act and the decision rendered by the Supreme Court and this Court in the afore-cited cases.

(4) In view of foregoing discussion, the matter is remitted to the trial Court for considering the application afresh after affording due opportunity of hearing to the parties and in light of decision rendered by the Supreme Court in the matters of **R.V.E. Venkatachala Gounder** (supra), **Malay Kumar Ganguly** (supra) and this Court in the matter of **Shashank Shekhar** (supra) within a period of 15 days from the date of receipt of certified copy of this order.

(5) Accordingly, the writ petition is disposed off with above-stated observation reserving liberty in favour of respondents No. 1 & 2 to file application for modification, if any.

(6) Copy of the order be sent to the trial Court concerned through District Judge, Bilaspur through FAX or e-mail.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

