

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 205 of 2006****Reserved on : 09.04.2019****Delivered on : 09.05.2019**

1. Laxmi Prasad, S/o Raghunath, aged about 28 years.
 2. Narendra, S/o Raghunath, aged about 15 years. Through legal guardian/ father- Raghunath.
- Both are R/o Village- Dhumarbhata, Tehsil- Kharsiya, District- Raigarh (C.G.)

---- Appellants**Versus**

1. Bodh Kunwar, Widow of Late Shri Balakram, Caste Raut, aged about 65 years, R/o Village- Dhumarbhata, Tehsil- Kharsiya, District- Raigarh (C.G.)
2. State of Chhattisgarh, Through: Collector, Raigarh (C.G.)

---- Respondents

For Appellants	:	Mr. Shaleen Singh Baghel, Advocate.
For respondent No. 1	:	Dr. N.K. Shukla, Sr. Advocate with Mr. Ajay Lakra, Advocate.
For State/ Respondent No. 2	:	Mr. Ravish Verma, Govt. Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV JUDGMENT**

1. This first appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against judgment/ decree dated 30.10.2006 passed by Fourth Additional District Judge (F.T.C.), Raigarh (C.G.) in Civil Suit No. 6-A/2004, wherein the said court decreed the suit filed by respondent No. 1/ plaintiff for declaring the sale deed dated 09.11.2000 void executed in favour of appellant No. 1 & 2 by

respondent No. 1 for land bearing Survey No. 52, 69 & 293 area admeasuring 0.121, 0.206 & 0.101 Hectare respectively and for delivery of possession of the said land to respondent No. 1.

2. Learned counsel for the appellants submits as under:-

(i) The trial court committed error by discarding the registered sale deed dated 09.11.2000 as well as the entry in revenue record.

(ii) The trial court has ignored the evidence adduced by the appellant side particularly the evidence of Deputy Registrar, therefore, the finding arrived at by the trial court is not sustainable.

(iii) The trial court has erred in not considering the fact that the amount of consideration for Rs. 66,500/- was given to respondent No. 1, therefore, the finding arrived at by the trial court is liable to be set aside.

3. On the other hand, learned counsel for respondent No. 1 submits that the finding arrived at by the trial court is based on relevant material placed on record and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.

4. I have heard learned counsel for the parties and perused the record in which judgment and decree has been passed.

5. Admittedly, the land in question is owned by respondent No. 1/ plaintiff. The suit was filed on the ground that the appellants by giving misrepresentation that respondent No. 1 has prepared paper for maintenance that the appellants will maintain respondent No. 1 for rest part of her life, the document was executed, but fraudulently the

appellants executed sale deed for the land as mentioned above and no consideration amount was paid to respondent No. 1 that is why the suit was filed for declaring the sale deed void which was decreed by the trial court.

6. The point for consideration before this Court is whether the consideration amount was paid to respondent No. 1 for execution of sale deed. The sale deed is Ex.P/1 in which Mahesh Ram & Keval Ram are attesting witnesses. Bodh Kunwar (PW-1), Mahesh Ram (PW-2) & Keval Ram (PW-3) deposed before the trial court in one voice that the document was executed for maintenance of respondent No. 1 namely Bodh Kunwar which was not executed for selling any land which is questioned. Both the attesting witnesses deposed before the trial court that no amount was given to respondent No. 1 at the time of execution of sale deed.
7. Scribe of the document namely Amritlal (DW-3), Sub-Registrar- J.P. Patel (PW-4) did not depose that any amount was paid to Bodh Kunwar. If the amount would have been paid in the office of Sub-Registrar, it would have been mentioned in the sale deed itself, but there is no mention of payment of amount in the office of Sub-Registrar.
8. Looking to the entire evidence of attesting witnesses, scribe of the document and Sub-Registrar, the statement made by Laxmi Prasad Yadav (DW-1) who is purchaser of the land is not acceptable that he paid the consideration amount to respondent No. 1. The trial court has elaborately discussed the entire evidence adduced by both side and it is recorded that the document was executed on the pretext that the

appellants will maintain respondent No. 1 for remaining part of her life, but they are not maintaining respondent No. 1 and now she is begging, therefore, the document in question is without consideration and the same is void. After reassessing the entire evidence, this Court has no reason to record contrary finding.

9. Accordingly, the appeal is liable to be dismissed. The decree is passed against the appellants and in favour of respondent No. 1- Bodh Kunwar on the following terms and conditions:-

- (i) The appeal is dismissed with cost.
- (ii) Parties to bear their own cost.
- (iii) Pleaders' fee, if certified be calculated as per certificate or as per schedule whichever is less.
- (iv) A decree be drawn accordingly.

Sd/-
(Ram Prasanna Sharma)
Judge