

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 1019 of 2013**

1. Smt.Punbai Sahu W/o Lt. Tirathram Aged About 69 Years Near Railway Colony, P.S. City Kotwali Korba Tahsil Korba Civil and Revenue, District Korba C.G. , Chhattisgarh
2. Pawan Kumar Sahu S/o Lt. Tirathram Aged About 38 Years Near Railway Colony, P.S. City Kotwali Korba Tahsil Korba Civil and Revenue, District Korba C.G. , District : Korba, Chhattisgarh
3. Santoshi Bai Sahu S/o Lt. Tirathram Aged About 36 Years Near Railway Colony, P.S. City Kotwali Korba Tahsil Korba Civil and Revenue District Korba, Chhattisgarh
--- Petitioners

Versus

1. Nawal Kishor Sahu S/o Tirithram Aged About 28 Years Vill. Qtr. No. 599/5, Balko Nagar Korba, P.S. Balco, Korba Tahsil, Civil and Revenue District Korba Chhattisgarh
2. Vimal Kishor Sahu S/o Lt. Tirathram Aged About 26 Years Village Qtr. No. 599/5, Balko Nagar Korba, P.S. Balco, Korba Tahsil Korba Civil and Revenue, District : Korba, Chhattisgarh
3. State of Chhattisgharh through the Collector Civil and Revenue District Korba , Chhattisgarh
4. Kanti Devi Sahu S/o W/o Lt. Tirathram Aged About 61 Years R/o Village Quarter No. 599/5 Balco Nagar Korba, P.S. Balco, Korba Tahsil Korba Civil and Reveue District Korba C.G. , District : Korba, Chhattisgarh
--- Respondents

For Petitioners	: Mr. Mukesh Sharma, Advocate
For Respondent 1 to 4	: Mr.Surya Prap Yudhveer Singh, Advocate
For the State/R-5	: Ms. Akshara Amit, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****26.08.2019**

Heard

1. The present petition is filed for setting aside a compromise decree passed by the Civil Judge, Class-I, Korba passed in Civil Suit No.51-A/2016. It is contended that the civil suit was filed by Nawal Kishore, Vimal Kishore and Mamta Sahu (respondents 1, 2 & 3 herein) against Pun Bai Sahu, Pawan Kumar Sahu, Santoshi and Smt. Kanti Devi claiming the property of Tirath who died in harness while he was in service of BALCO. It was stated that the service benefits were given to Kanti Bai and she was employed with BALCO and it was agreed that the rest of the land and immoveable property which was held by Tirath would fall to the share of Pun Bai, Pawan Sahu, Santoshi Bai. It is stated that subsequently a civil suit was filed for declaration and partition by Nawal Kishore, Vimal Kishore and Mamta Sahu wherein all of a sudden a compromise was drawn on 25.07.2010 and the compromise deed does not bear the signatures. It is further submitted that neither such compromise was affected nor the petitioners who were defendants have agreed for such compromise and some other person represented the petitioners as defendants as they were not identified and compromise decree was drawn. Therefore, the the decree may be set aside and the case may be remitted back to the trial Court for adjudication on merits.
2. Counsel for the respondents vehemently submits that during the compromise, the respondents were very much present and their statements were recorded, therefore the decree cannot be set aside on mere say that the compromise was not effected.
3. In order to appreciate the rival submission of the parties, the original case of civil suit was called. The order sheets of the civil suit would show that on 30.01.2010, the case was fixed for 25.04.2010 before

the Civil Judge, Class -I, Korba. Thereafter on 26.04.2010 the order sheet reflects that the case was fixed for evidence of the parties on 16.08.2010 and thereafter hand-written date of 25.07.2010 is shown. The the order sheet does not bear the signature of presiding judge. However, on 25.07.2010, the order sheet records that the decree was drawn on the basis of compromise and no objection was filed on decree, therefore, the decree was signed..

4. The submission of learned counsel for the petitioners that the petitioners who were defendants in the case did not appear on the date finds force from the records. The statement of defendants (petitioners herein) which were recorded though bears certain thumb impression and signatures but it is not clear as to who has identified them. It is obvious that the Court cannot personally know the parties and in such a case unless and until the parties are identified by their counsel, the court cannot hold the brief for a party. Further more, the order sheet dated 26.04.2010 do not bear any signature of the Presiding Officer that also creates a doubt. In the tied matter, the date was given on 16.08.2010 whereas subsequently the hand written date of 25.07.2010 was written which too was not signed by the Presiding Officer that also creates a doubt. Any such ambiguity on the face of record cannot be allowed to sustain as the orders sheets are normally signed by the Presiding Officers. Unless and until the order sheets are signed by the Presiding Officer, no authenticity can be given. More so, the doubt is further fortified by the fact that the date is given on 16.8.2010, however, it is preponed to 25.07.2010. On perusal of the records, it appears that neither the compromise petition is there nor any application for urgent hearing is on record to

appreciate the fact that how and why the case was taken up before the date of hearing. Under the circumstances, since the serious doubt under cloud has been created over the decree, the same cannot be allowed to sustain. Accordingly, the decree dated 25.07.2010 is set aside and the case is remitted back to the court below for decision afresh on merits. The parties shall appear before the Court below on 30th September, 2019.

5. With the above observation/direction, this petition stands disposed of.

**Sd/-
(GOUTAM BHADURI)
JUDGE**

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