

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 156 of 2017

Bedram S/o Late Sakhuram, Aged About 64 Years Caste Gond, R/o Village Khorsipali, Botalda, Tahsil Kharsia, District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Collector, Raigarh Chhattisgarh

2. Nankiram S/o Dhanija Kanwar, Dead Through LRs
2a - Jhagarmati W/o Nankiram

2b - Ramkumar S/o Nankiram

2c- Hemlal S/o Nankiram

2d - Chainlal S/o Nankiram

2e - Premlal S/o Nankiram

3. Kriparam (Dead) Through LRs

3(a) - Juglal Patel S/o Late Kriparam Aged About 65 Years

3(b) - Lochan Patel, S/o Late Kriparam, Aged About 56 Years

Respondent No.2a to 3b R/o village Botalda, Tahsil Kharsia, District Raigarh (C.G.)

4. Additional Commissioner, Bilaspur Division, Bilaspur Chhattisgarh

--Respondents

For Petitioner	:	Shri Sanjay Agrawal, Advocate.
For State	:	Shri Priyank Rathi, PL.
For respondents No.2a to 3b	:	Shri Rajendra Tripathi, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24/09/2019

Heard.

1. Instant petition is against the order dated 13/10/2016 passed by the Additional Commissioner, Bilaspur in Case No.29/A-23/14-15.
2. The facts of this case are that on 26/07/1971 a purchase of land was

made in favour of Sakhuram in respect of the land bearing khasra No.312/4, 320/3, 320/4 and 320/5 admeasuring 0.477 hectares. The Sakhuram having expired the said property is bestowed on his son and is being represented by the present petitioner Bedram who is his son. Subsequently on 25/10/99 an application was filed under section 170-B of the Land Revenue Code by Nankiram that sale so made was a sham sale deed and actually it was mortgage and therefore the sale be reverted back. The SDO after an enquiry by an order dated 9/01/2002 allowed the application and passed order in favour of Nankiram and directed for return of the land to him. In said application before the SDO, Kriparam S/o Jagar Singh and Sakhuram the father of the present petitioner were respondents No.1 and 2.

3. Records would reveal that against the order of SDO Bedram the present petitioner had filed an appeal bearing no.17/A-23/2001-2002 wherein Nankiram and Kriparam were the respondents. The said appeal was allowed by the Collector, Raigarh and the order of the SDO was set aside. The effect of order was that it was held that Sakhuram to be the purchaser and the purchase was not hit by section 170-B of the Land Revenue Code. Consequently, Bedram who was claiming the right on behalf of Sakhuram continued to be the owner of lands.

4. The said order of the appeal was challenged by Nankiram one of the respondent in appeal. In such appeal Kriparam and Bedram were the respondents. It was alleged in the memo that subject property was not sold but it was a mortgage and the sham sale deed was executed in favour of Sakhuram. During the pendency of the revision petition before the Additional Commissioner the applicant therein Nankiram died on 26/06/2010 and Kriparam also died in 2011. Under these circumstances, the legal heirs of Kriparam namely Juglal Patel and Lochan who are the respondents No.3(a) and 3(b) before this court were substituted. In such appeal an application

was filed by the legal heirs that benami purchase was made by late Kriparam and the ownership actually belong to Nankiram and after his death the legal heirs of Nankiram who were substituted in appeal. The said legal heirs of Kriparam are Ramkumar (2b), Hemlal (2c), Premlal (2e), Chainlal (2d) and Dujmati and it was contended that they are entitled to get back the property, therefore the property be returned back to them.

5. Learned Commissioner on the application of the said respondents passed an order and directed that the land in question be returned to the legal heirs of Nankiram.

6. Learned counsel for the petitioner would submit that the legal heirs of the respondent joined hands to defeat the claim of the petitioner whose father had purchased the property and on the basis of the joint collusive agreement the petitioner cannot be divested out of the title.

7. Learned counsel for the respondents No.2(a) to 3(b) would submit that the order is well merited which do not call for any interference.

8. Perusal of the impugned order dated 13/10/2016 would show that order was passed on the basis of agreement in between the legal heirs of the Kriparam and legal heirs of Nankiram. The legal heirs of Nankiram were the appellant and legal heirs of Kriparam who was respondent No.1 in revision petition before the Commissioner. The order of appellate court that of Collector dated 4/05/2002 was in favour of petitioner herein, who was respondent No.2 in revision petition before the Commissioner. Before the court of Commissioner Nankiram and Kriparam both were party. After the death of Nankiram and Kriparam both their legal heirs joined hands while the pendency of revision. The fact would suggest that by collusion an agreement was arrived at which was subsequently slated in to an application for compromise before the Commissioner and by effect of such collusive agreement the order of Collector was set aside to divest the

petitioner out of the property.

9. Allowing such application in the nature would amount to depriving the petitioner of his property on the basis of an collusive agreement and inter arrangement between one of the respondent which can be termed as an outcome of collusion & fraud as such the order of Commissioner fortifying such agreement cannot be sustained. The order further is non-speaking, cryptic and without any reason. Consequently, the order dated 13/10/2016 is devoid of all merits, is therefore set aside. The Commissioner shall commence a de-novo hearing of revision afresh and will pass appropriate order in accordance with law. Accordingly, the petition stands disposed of.

Sd/-

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Goutam Bhaduri
Judge