

HIGH COURT OF CHHATTISGARH, BILASPUR

CR No. 19 of 2019

- Dharam Prakash Saraf (Petitioner In Person) S/o Late Shri Khatanand Saraf, Aged About 49 Years, R/o Quarter No. E/22, 15 Block S E C L Colony, Korba Chhattisgarh.

---- Petitioner

Versus

1. Bharat Petroleum Corporation Limited Bharat Bhawan 4 and 6 Bellad Estate, Kareem Bhai Road, Mumbai (Maharashtra) 400001.
2. Khatanand (Dead) Hetu Vidhik Varis Smt. Aasha Saraf, W/o Dharam Prakash Saraf, Aged About 49 Years, R/o Quarter No. E/22, 15 Block Colony, S E C L Tahsil And District Korba Chhattisgarh.
3. Satyaprakash Saraf S/o Late Khatanand Saraf Aged About 35 Years Present Address- Quarter No. E/22, 15 Block Colony, Korba, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Respondents

For petitioner : Mr. Dharam Prakash Saraf, petitioner
in person.

SB: Hon'ble Shri Justice Ram Prasanna Sharma

ORAL ORDER

05-08-2019

1. This revision petition is preferred under Section 115 of the Code of Civil Procedure, 1908 against the order dated 19-11-2018 passed by 4th Civil Judge, Class -1, Bilaspur (CG) in Execution Case No. 69-A/98 wherein the said court terminated the

proceeding of execution as the decree passed dated 31-12-2005 in Civil appeal No. 7-A/99 by the District Judge, Bilaspur is fully satisfied.

2) The decree passed by 4th Civil Judge, Class-1, Bilaspur is challenged before the court of District Judge, Bilaspur and vide judgment dated 31-12-2005 in Civil Appeal No. 7-A/99 the District Judge awarded the decree for delivery of possession of land bearing survey No.748/2 area 0.76 acre situated at Tifra, Bilaspur and for compensation to the tune of Rs.1,000/- per month from 7-3-1997 till delivery of possession.

3) Revisioner/Petitioner-in-person submits that at the time of delivery of possession the judgment debtor has damaged the property that is why he filed execution for compensation on that count, but same is turned down by the Executing Court. The executing court has not awarded interest on compensation amount which was deposited in court and some amount is still with the civil court.

4) I have heard the revisioner/petitioner-in-person and perused all the documents filed on his behalf.

5) The question for consideration of this court is whether the executing court exercised its jurisdiction not vested in it by law or failed to exercise its jurisdiction so vested or acted in exercising of

its jurisdiction illegally or with material irregularity. From the order sheets of the executing court it is clear that possession of land is delivered to decree holder as per decree and compensation was also received by him to the tune of Rs.1,69,258/-.

5) In view of this court, the executing court cannot travel beyond decree. The decree is executed as per terms and conditions of the decree. If any damage is caused at the time of execution of decree, the revisioner has all the rights to take legal recourse for the same. There is no such provision for awarding interest on compensation amount which is deposited in civil court, therefore, interest cannot be granted to the revisioner. If any amount is left with the civil court it can be withdrawn by the revisioner. It is not the case where the executing court has exercised its jurisdiction not vested in it or acted in exercise of its jurisdiction illegally or with material irregularity.

6) Accordingly, the revision petition is dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju