

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 121 of 2019

Panchram Banjare, S/o - Late Firanta, Aged about - 49 Years,
R/o - Village - Ghuru (Ameri), Tehsil - Takhatpur, District- Bilaspur
(C.G.) **---- Appellant**

Versus

1. Dr. Smt. Shweta Agrawal, W/o - Dr. B. B. Agrawal, R/o - Shri Prasuti and Shishu Mandir, Shanti Nagar, Ring Road No. - 2, Bilaspur (C.G.)
2. Ravindra Giri, W/o - Late Shri Ramdev Giri, Aged about - 62 Years, R/o - Behind Bramhakumari Prajapita Center, Village- Usalapur, District- Bilaspur (C.G.)
3. State of Chhattisgarh, Through: Collector, District- Bilaspur, (C.G.)

---- Respondents

For Appellant : Shri Shashi Kumar Kushwaha, Advocate.

For State/Respondent No. 3 : Mrs. Smita Jha, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

01/07/2019

1. Heard on admission.
2. This appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against the judgment/decreed dated 28th January, 2019 passed by 8th Additional District Judge, Bilaspur, District – Bilaspur (C.G.) in Civil Suit No. 171-A/2015 wherein the said Court dismissed the suit filed by the appellant for cancellation of sale-deed executed in favour of respondent No. 1 by respondent No. 2 for land bearing survey No. 443/1 and 443/7-B, area admeasuring 2821 sq. ft. situated at Village – Ameri, Patwari Halka No. 26 (37) Revenue Circle – Sakari, Tahsil- Takhatpur, District – Bilaspur (C.G.).
3. In the present case, appellant has filed the suit on the basis of an agreement dated 6.3.2017 in favour of the appellant for sale of land bearing survey No. 443/1, 443/7-B, 443/3, 443/3-A area

admeasuring 0.21 acres situated at Village – Ameri, Patwari Halka No. 26 (37) by the respondent No. 2. It is alleged that consideration amount was 85 lakhs, out of which, 35 lakhs was paid in advance to respondent No. 2. The appellant claimed that he got compensation from Government to the tune of Rs. 21 lakhs because his 1.5 acres land was acquired by the Government for purpose of constructing canal, but no document was filed before the trial Court regarding acquiring of land of appellant and payment of any compensation to him. No attesting witnesses of the agreement in favour of appellant was produced before the trial Court.

4. Looking to the entire evidence, the trial Court opined that no compensation was received by the appellant from Government, therefore, payment of Rs. 35 lakhs to respondent No. 2 is not proved. Even if any agreement is executed between the parties that itself is not creating any title in favour of the appellant. The appellant did not file any suit for specific performance of contract and he had no right over the property. When the appellant had no right over the property, he cannot file the suit for cancellation of sale-deed which was already executed in favour of respondent No. 1 by respondent No. 2. The judgment passed by the trial Court is based on proper marshaling of evidence and it is not a case where interference of this Court is required with the judgment of the trial Court.
5. Accordingly, the appeal is liable to be and is hereby dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge