

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 293 of 2018

Powertek India 3 Kanha Heritage Ring Road No.2 (Gaurav Path) Bilaspur, Through Partner Jitendra Kumar Agrawal, Aged About 51 Years, S/o Shri Madan Lal Agrawal, Caste Agrawal, Occupation Business, R/o V.I.P. Colony, 204d, Near S.B.I. Sarkanda Bilaspur, Tehsil And District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Appellant

Versus

1. Smt. Pratima Mishra W/o Deevakant Mishra Aged About 60 Years R/o Through Amit Kumar, Flat No. 906 B.Wing, Kalptarun Haarmani, Near Kaspet Bati (Wakard) Pune Maharashtra (Plaintiff), District : Pune, Maharashtra
2. Smt. Santoshi Kashyap W/o Ramkishun Kashyap Aged About 33 Years Caste Kurmi, R/o Bahtarai, Bilaspur, Tehsil And District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Dashrath Sahu S/o Bhagauram Sahu Aged About 30 Years R/o Chingrajpara Bilaspur, Tehsil And District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Rajendra Soni S/o Late Kashiram Soni Aged About 32 Years R/o Jorapara, Sarkanda, Tehsil And District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. Amarnath S/o Punnilal Dhivar Aged About 31 Years R/o Bema, Police Station Sarkanda, Bilaspur, Tehsil And District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
6. The State Of Chhattisgarh Through Collector Bilaspur, Tehsil And District Bilaspur, Chhattisgarh (Defendants), District : Bilaspur, Chhattisgarh

---- Respondents

For Appellant	:	Shri Pravin Kumar Tulsyan, Advocate
For Respondent No.1	:	Shri Praveen Das, Advocate
Other Respondents	:	None appears

**D.B. :Hon'ble Mr. Justice Manindra Mohan Shrivastava &
Hon'ble Mrs. Justice Vimla Singh Kapoor**

Judgment On Board

13/09/2019

1. Leave has already been granted to the appellant to file this appeal. On the earlier date of hearing on 21.2.2019, it was recorded that the parties agree that the impugned judgment and decree may be set aside and the matter be remitted back to the trial Court for a fresh trial.
2. With the consent of learned counsel appearing for the parties, the matter is heard finally. The sole contention of learned counsel for the appellant is that the property in dispute, in respect of which declaration was sought by the respondent-plaintiff, was purchased by registered sale deed by the appellant on 17.4.2017 i.e. 10 days before filing of the suit by respondent-plaintiff. Therefore, he was a necessary party in the suit.
3. Learned counsel appearing for the respondent does not dispute this legal position and submit that the impugned judgment and decree may be set aside and he would be moving an application for impleading the appellant as one of the parties.
4. In view of the submissions of learned counsel appearing for the parties and admitted position that before filing of the suit, the disputed property was sold by registered sale deed in favour of the appellant and law laid down by the Supreme Court in the case of **Sarvindar Singh Vs. Dalip Singh & Ors.** (1996) 5 SCC 539, the plaintiff's suit was not maintainable without impleading the purchaser who had purchased the property by a registered sale deed even prior to filing of the suit. Impugned judgment and decree, therefore, cannot be sustained in law and is, therefore, set aside. The matter is remitted to the trial Court. The appellant shall be impleaded as the defendant by the respondent-plaintiff and, thereafter, the trial Court shall proceed to decide the suit in accordance with law.
5. The parties to bear their respective costs.
6. Let appellate decree be drawn accordingly.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge