

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWP227 No. 429 of 2019

- Peelalal S/o Banau Aged About 66 Years Caste Gada (Schedule Cast), R/o Village Chilhati, P.S. and Tahsil Masturi, District Bilaspur Chhattisgarh....Plaintiff.

---- Petitioner

Versus

1. Puratan Bai D/o Karan Caste Yadav, R/o Aarasmeta, Pamgarh, District Janjgir Champa Chhattisgarh.....Defendant No. 1.
2. Chittkunwar W/o Fagun R/o Village Chilhati, P.S. and Tahsil Masturi, District Bilaspur Chhattisgarh.....Defendant No. 2.
3. Ghasiram S/o Shero Aged About 50 Years R/o Bhaisosemariya, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh.....Defendant No. 3.
4. Dharam S/o Dayalu Aged About 46 Years R/o Village Chilhati, Bazar Chowk, Post Loharsi, District Janjgir Champa Chhattisgarh.....Defendant No. 4.
5. Chevnarayan Pandey S/o Radheshyam Pandey R/o Boirdih, Basti, Post Raseda, Thana and Tahsil Baloda Bazar, District Raipur Chhattisgarh.....Defendant No. 5.
6. State of Chhattisgarh Through The Collector, Tahsil and District Bilaspur Chhattisgarh.....Defendant No. 6.

---- Respondents

Order On Board By

24/06/2019

1. Referring to the judgment rendered by the Division Bench of M.P. High Court in the matter of **Smt. Rekha Rana & Ors. v. Smt. Ratnashree Jain** reported in **AIR 2006 MP 107**, it is argued that the certified copy of a registered sale deed would fall under Section 65(e) of the Evidence Act, 1872, therefore, permission of lead secondary evidence can be allowed and the trial Court has committed serious error of law by rejecting the prayer for leading secondary evidence.
2. Sale deed dated 19.09.1959 is a source of title for the plaintiff/petitioner. He claims to have derived title from his father through the said sale deed. The trial Court has dismissed petitioner's application mainly for the reason that the petitioner seems to be negligent in not keeping the original copy of the sale deed with him properly and carefully. This cannot be a reason for dismissing the application for permission to lead secondary evidence, if the existence of the document is not in dispute and otherwise the nature of document is one such which is covered under

any of the clauses of Section 65 of Evidence Act, the trial Court ought to allow the application.

3. In the matter of **Smt. Rekha Rana & Ors. (supra)** the Division Bench of M.P. High Court has held thus at Paragraph 15:-

“15. We have already held that a certified copy of a registered instrument/document issued by the Registering Officer, by copying from Book I, is a certified copy of a public document. It can therefore be produced in proof of the contents of the public document or part of public document of which it purports to be a copy. It can be produced as secondary evidence of the public document (entries in Book I), under Section 65(e) read with Section 77 of the Act without anything more. No foundation need be laid for production of certified copy of secondary evidence under Section 65(e) or (f). But then it will only prove the contents of the original document, and not be proof of execution of the original document. (Vide Section 57(5) of Registration Act read with Section 77 of Evidence Act). This is because registration of a document is proof that someone purporting to be 'X' the executant admitted execution, but is not proof that 'X' executed the document. We will elaborate on this aspect when dealing with Point No.(iv).

4. It is thus clear that certified copy of a registered sale deed is

in the nature of a document covered under Section 65(e), therefore, petitioner's prayer for leading secondary evidence deserves to be and is hereby allowed.

5. The Writ Petition under Article 227 of the Constitution of India is disposed of at the admission stage.

Sd/-
(Prashant Kumar Mishra)
Judge

Ankit