

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 52 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. Mangalsingh, S/o Suklal Kanwar, R/o Village Parsapali, Tahsil Kharsia, District Raigarh Chhattisgarh
 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
- Both 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 Kunal Das, PL.
For respondents No.2, 3(a) & 3(b):	:	Shri Rajendra Tripathi, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

30/09/2019

Heard.

1. Instant petition is against the order dated 13/10/2016 passed by the Additional Commissioner, Bilaspur in Case No.28/A-23/14-15.
2. The facts of this case are that on 22/04/1969 a purchase of land was made in favour of Sakhuram in respect of the land bearing khasra 22/1kha, 23/1, 23/2, 24/2. The Sakhuram having expired the said property was bestowed on his son and is being represented by the present petitioner Bedram who is his son. Subsequently on 16/08/99 an application was filed under section 170-B of the Land Revenue Code by Mangal Singh 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 7/01/2002 dismissed the application and passed order in favour of petitioner. 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. Against the order of the SDO Mangal Singh had filed an appeal before the Collector which was dismissed on 4/05/2002 in appeal bearing no.18/A-23/2001-2002

4. The said order of the appeal was challenged by Mangal Singh in revision. In such revision Kriparam and Bedram were the respondents. It was alleged in the memo of revision 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 respondent Kriparam died. 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 revision an application was filed by the legal heirs that benami purchase was made by late Kriparam and the ownership actually belong to Mangal Singh. It was contended that he is entitled to get back the property, therefore the property be returned back to him.

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

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, 3(a) & 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 Mangal Singh. Mangal Singh was the appellant and legal heirs of Kriparam who were respondents No.1 and 2 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 Mangal Singh and Kriparam both were party. After the death of Kriparam his legal heirs and Mangal Singh 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 a 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.