

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 93 of 2020

1. Kailash Devangan, S/o. Shri Mahesh Ram Devangan, Aged About 53 Years
2. Lomas Kumar Devangan, S/o. Shri Mahesh Ram Devangan, Aged About 27 Years
3. Ashok Devangan, S/o. Shri Mahesh Ram Devangan, Aged About 35 Years
4. Bhagwati Devangan, S/o. Shri Mahesh Ram Devangan, Aged About 30 Years,
5. Manoj Devangan, S/o. Shri Mahesh Ram Devangan, Aged About 40 Years

All are R/o. Village Kesla, Tahsil Tilda, District Raipur Chhattisgarh

---- Petitioners

Versus

Satyanarayan Agrawal, S/o. Shri Purnamal Agrawal, Aged About 63 Years,
R/o. Village Kharora, Tahsil Tilda, District Raipur Chhattisgarh.

-----Respondent

For Petitioners

: Mr. Yogesh Pandey, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

29/01/2020

1. This petition has been brought being aggrieved by the order dated 10.01.2020, passed in Civil Suit No.326-A/2018, by the learned First Civil Judge Class-II, Raipur, District – Raipur (C.G.), by dismissing the application filed by the petitioners under Order 11 Rule 12 of C.P.C.
2. It is submitted by the learned counsel for the petitioners that the petitioners have filed an application under Order 11 Rule 12 of C.P.C. read with Section 151 of C.P.C. praying for production of certified copy of the sale deed dated 12.04.1989. It is not disputed that neither of the parties are in possession of the original sale deed, however, photocopy of the certified copy of the sale deed dated 12.04.1989, which has been produced by the plaintiff in the

civil suit contains three pages, whereas, the petitioner, who are defendants they have also obtained certified copy of the same documents and they have received only two pages of the same, therefore, there is pleading on behalf of the petitioners/defendants that respondent/plaintiff has forged the extra page of the said sale deed. The application filed by the petitioners was contested by the respondent/plaintiff side making a statement that he is not in possession of the original document, however, he is in possession of the certified copy, which shall be produced before the Court at relevant time. The learned trial Court has not appreciated the prayer made by the petitioners in proper perspective by dismissing the application mentioning that the respondent is not in possession of the original documents, whereas, this was not the prayer of the petitioners for filing of the original documents, therefore, the impugned order is liable to be set-aside.

3. Considered on the submissions made by the counsel for the petitioners and on perusal of the documents attached and the impugned order, I am of this view that the petitioners had made very specific prayer for production of certified copy of the sale deed dated 12.04.1989, which has not been denied by the respondent side, however, the learned trial Court has not taken notice of the same and observed that the respondent is not in possession of the original, therefore, that order can not be passed. Hence, I am of this view that the application needs re-appreciation.
4. Accordingly, this petition is disposed off at motion stage. The application filed under Order 11 Rule 12 of C.P.C read with Section 151 of C.P.C. is restored and the learned trial Court is directed to reconsider on the application filed by the petitioners in view of the observations made hereinabove.

Sd/-
(Rajendra Chandra Singh Samant)
Judge