

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.233 of 2020

1. Vijay Kumar Soni S/o Shri R.K. Soni Aged About 27 Years
2. Pankaj Kumar Soni S/o Shri R.K. Soni Aged About 24 Years
3. Ritu Raj Soni S/o Shri R.K. Soni Aged About 22 Years
(Alla are R/o Village Mudhipar, Tahsil Bilha, District Bilaspur Chhattisgarh)

---- Petitioners

Versus

1. Rakesh Kumar Pande S/o Shri Ishwar Pande Aged About 35 Years R/o Village Bodari, Tahsil Bilha, District Bilaspur Chhattisgarh
2. Sanjay Kumar Sahu S/o Shri Sumant Lal Sahu Aged About 33 Years Village Basha, Tahsil Masturi, District Bilaspur Chhattisgarh
3. State Of Chhattisgarh Through - Collector, Raipur, District Bilaspur Chhattisgarh

---- Respondent

For Petitioners	: Mr. Amit Kumar Chaki, Advocate.
For Respondent/State	: Mr. D.P. Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

27-02-2020

Heard.

1. This petition has been brought being aggrieved by the continuation of the execution proceeding in Execution Case No.22A/2017 against the petitioners/judgment debtors.
2. Learned counsel for the petitioners submitted that on a suit filed by the respondent side which was numbered as Civil Suit No.238A/2015, ex-parte judgment and decree was passed against the petitioners on 06.07.2017. The petitioners then filed application under Order 9 Rule 13 of C.P.C. before the same court which was registered as M.J.C. No.165/2019 and decided on 25.09.2019 in which the ex-parte judgment and decree was set aside.

3. In the meanwhile, the respondent had filed execution proceeding on the basis of the ex-parte decree. The learned Execution Court by order dated 25.09.2019 mentioning the order dated 25.09.2019 terminated the execution proceeding. However, subsequent to that, without any mention of any reason, the execution proceeding is still continuing in which the order has been passed for issuance of attachment warrant against the petitioners.
4. Learned counsel for the State has formal objection.
5. On perusal of the documents filed along with the petition and specially the order dated 25.09.2019 by which the ex-parte judgment and decree in the petition was set aside, I am of this view that the execution proceeding that has kept continued by the Execution Court is illegal. Therefore, this petition is disposed off at the motion stage and learned Execution Court is directed to terminate and file the execution proceeding which has been registered as Execution Case No.22A/2017 and file the same.
6. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Monika