

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP227 No. 192 of 2018**

1. Praveen Kumar Katela S/o Late Shri Basant Lal Katela, Aged About 46 Years, R/o Civil Lines, Katela Bhawan, Raipur Tahsil and District Raipur, Chhattisgarh ..... Plaintiff, District : Raipur, Chhattisgarh

**---- Petitioner**

**Versus**

1. Smt. Kamla Devi Jain W/o Late Shri Parasmal Jain, Aged About 69 Years, R/o Shankar Nagar, Near Water Tank, Raipur, Tahsil and District Raipur, Chhattisgarh (New Address), District : Raipur, Chhattisgarh
2. Smt. Neeta Devi Bhansali W/o Shri Raj Kumar Bhansali, Aged About 45 Years, R/o Malviya Road, Baijnathpara Ward Raipur, Tahsil and District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. Smt. Mamta Devi Bhansali W/o Shri Mukesh Bhansali, R/o Malviya Road Baijnathpara Ward Raipur, Tahsil and District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
4. Hon'ble Shri Aslam Khan, Ninth Civil Judge Class-2, District Court Raipur, Tahsil and District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
5. Hon'ble Registrar (Vigilance) High Court of Chhattisgarh, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

**--- Respondents/Defendants**

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For Petitioner – Shri V.G.Tamaskar, Advocate.

For Respondents 1 to 3 – Shri Ashish Surana, Advocate.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order on Board**

**11-02-2020**

1. This petition has been brought challenging the order dated 29-01-2018 passed in Civil Suit No.49A/2011 by which the application filed by respondent No.1/defendant No.1 under Order 13 Rule 9 read with Section 151 of the CPC was allowed and the certified copy of the sale deed dated 03-04-1974 was ordered to be returned to respondent No.1.

2. It is submitted that because of the return of the certified copy of the sale deed the maps of the disputed property on which the case was based are also not found present in the record and in the stage when the witnesses shall be examined the absence of the documents on record is certainly going to affect the examination or cross-examination of the witnesses. Therefore, it is prayed that the appropriate order be passed.

3. Learned counsel of respondents 1 to 3 submits that no error has been committed by the trial Court in passing the impugned order and there is no substance in the argument presented by the petitioner's side.

Placing reliance on the judgment of Andhra Pradesh High Court in the matter of **M. Satyanarayan @ Pedda Raju Vs. Katama Raju**, 2009 SCC OnLine AP 262, it is submitted that Order 13 Rule 9 of the CPC specifically provides that a party can apply for return of document and accordingly the application was made and the trial Court has exercised the jurisdiction accordingly, hence, no interference is called for.

4. Heard learned counsel for the parties and perused the documents.

5. Presence and absence of maps in the record of the civil suit is another issue which can be raised before the trial Court itself. At present the only question which needs consideration is whether the impugned order has been correctly passed. Order 13 Rule 9 of the CPC empowers a Court to return documents to a party which has been filed in the civil suit. It is the duty of the Court to ascertain and put certain conditions, in case presence of document is required in future at the time of recording of evidence. As the document returned is certified copy, therefore, it is not an original document. Hence whenever it is required it may be directed to be produced. No such condition has been imposed by the trial Court upon the applicant/respondent No.1 while returning the document which was needed by him in another case. I do not find any reason to interfere in the impugned order. The petition is disposed off without interfering with the impugned order, the only condition is imposed upon respondent No.1 is to produce the certified copy of the sale deed dated 03-04-1974 as and when it may be required at the stage of recording of evidence of witnesses, production of which may be ordered by the trial Court.

6. The petition stands disposed off.

Sd/-  
**(Rajendra Chandra Singh Samant)**  
Judge