

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 320 of 2019

Ramji Pandey S/o Shri Sidhnath Pandey Aged About 67 Years R/o Caste Brahmin R/o Village Jajaga Police Station And Tehsil Udaipur District Surguja Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through Collector Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh.

---- Respondent

For Petitioner	: Shri Nishikant Sinha, Advocate.
For Respondent/ State	: Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

15-07-2020

Heard.

1. This petition has been brought under Article 227 of the Constitution of India being aggrieved by the order dated 11.2.2019 passed by the learned First Additional District Judge, Ambikapur, District Sarguja, by which the order of the trial Court dismissing the application under Order XXXIX Rule 1 and 2 of the CPC filed by the petitioner, was upheld.
2. Learned counsel appearing for the petitioner submits that after filing of Civil Suit No. 170A of 2016 before the Court of Civil Judge, Class II, Ambikapur, an application under Order XXXIX Rule 1 and 2 of the CPC was filed praying for relief of interim injunction. It is also submitted that the suit property land bearing Khasra No. 998 of 2013 area 2.023 hectare situated in village Jajaga, District Sarguja was settled in favour of late Sufaldas Mahant in Revenue Case No. 96A-6-1971-72, by order dated 14.7.1973 and a lease hold was granted in favour of Sufaldas, which was converted to Bhumiswami Patta on 13.11.1980. The

petitioner is the purchaser of the said property, who received the possession of the same. His application for sanction of the purchase was dismissed by the Collector, Sarguja, however, the petitioner is in continuous possession since 13.7.1982 on the basis of the agreement dated 13.7.1982 and another agreement dated 27.2.1987. The petitioner is in possession of the suit land since more than 30 years. The respondent is interfering with the possession by pursuing a scheme of plantation on the suit land. It is also submitted by counsel for the petitioner that the learned trial Court as well as the Appellate Court both have committed error by holding that there is no *prima facie* case in favour of the petitioner and his prayer has been dismissed by both the Courts, which are erroneous and needs to be interfered with.

3. Learned State counsel submits that the respondent is contesting the case from the very beginning. The suit land was allotted to Sufaldas who was an Ex-Service man in the year 1972-73. The allotment of lease had been on clear terms, that the land was non-transferable, therefore, any transfer made by Sufaldas is illegal and against the provision under Section 165(7)(b) of the Chhattisgarh Land Revenue Code, 1959. It is also submitted that the Collector, Sarguja has passed an order regarding the suit land to be recorded as government land, which has been executed and further, since there is neither possession of the petitioner nor any sale-deed in existence pursuant to the agreement dated 13.7.1982 and 27.2.1987. Title on the land has not been transferred in favour of the petitioner, however, the Ex-service man – Sufaldas also had no entitlement to transfer the suit land in question, which is a government land. Therefore, the petitioner had no claim on it. Hence, the trial Court as well as the Appellate Court both have rightly held that there is no *prima facie* case in favour of the petitioner. Hence,

this petition be dismissed.

4. Heard counsel for both the parties and perused the documents present on record.

5. Considered the submissions and also considered the facts of the case.

It is undisputed that the suit land in question was granted on lease by the State Government to Ex-service man – Sufaldas. Section 181(1) of the Chhattisgarh Land Revenue Code provides for such government lessee and Section 182 of the Code provides for rights and liabilities and there is no such provision that the person having such lease hold has entitlement to transfer the suit land. Therefore, this petitioner has first to establish, that in case he is in possession of the suit land, then he has possessed the suit land on the basis of some valid and lawful transfer regarding which there is no material present at this stage. Even if it is assumed that the agreements dated 13.7.1982 and 27.2.1987 were executed by the said Sufaldas with the petitioner, those agreements by themselves are not the transfer deeds or sale-deeds for transferring title. Further, the entitlement of Sufaldas to transfer the suit land is also under question. It is not denied according to the averments from both the sides that the suit land at present is recorded in the name of State Government. Therefore, in this situation, I am of this view that the learned trial Court as well as the Appellate Court have not committed any error in holding that the petitioner has failed to make out a *prima facie* case in his favour. Hence, I do not find any merit and this petition is dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge