

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MA No. 51 of 2019**

Netram Poddar S/o Late Baratram Aged About 63 Years R/o Near Sindhi Gurudwara, Rani Road, Korba, Tehsil Korba, District Korba CG

---- Appellant**Versus**

1. Amit Kumar Singh S/o Yashwant Kumar Singh Aged About 33 Years R/o House No. 966, (Infront Of Mishra Kirana Shop I.T.I. Rampur, Rampur Korba, Tehsil Korba District Korba CG
2. Ravindra Pratap Singh S/o Jagdish Kumar Singh Aged About 32 Years R/o Ram Mandir Irrigation Colony, Behind The House Of Dhanraj Singh Chouhan, Khisora, Thana And Tehsil Akaltara, District Janjgir Champa CG
3. State Of Chhattisgarh Through Collector District Janjgir Champa CG

---- Respondents

For appellant	: Mr. Sanjay Patel, Adv.
For Respondent No. 1 & 2	: Mr. Dashrath Prajapati, Adv.
For Respondent No. 3	: Mr. D.C. Verma, Govt. Adv.

Hon'ble Mr. Sharad Kumar Gupta, Judge
ORAL ORDER

(30-1-2020)

1. Appellant has preferred civil suit No. 8-A/2018 against the respondents 1 and 2 for specific performance of contract regarding disputed land bearing Khasra No. 424/2, 426/2, 427/2, 429/5 and 576/2 admeasuring 0.35 acre, 0.34 acre, 0.23 acre, 1.10 acre, 1.24 acre respectively, situated at village Kodabhat, alternatively he claimed for refund of Rs. 18 lacs. from respondents No. 1 and 2 and for permanent injunction against respondents No. 1 and 2.

2. In brief, the appellant's case is that respondents No. 1 and 2 had executed an agreement for sale on 21-4-2015 regarding disputed land for sum of Rs. 21 lacs. He had already paid them Rs. 18 lacs. Now respondents No. 1 and 2 have denied to execute the registered sale deed. They are trying to sell the disputed land and also trying to manipulate the revenue record regarding disputed land.

3. In brief the respondents No. 1 and 2 case is that respondent No. 1 had taken Rs. 15 lacs as a loan from appellant, appellant got executed sale agreement as a guarantee for Rs. 18 lacs adding Rs. 3 lacs as interest. He already paid Rs. 11 lacs to appellant. Respondent No. 2 had signed on the

sale agreement as a witness.

4. Trial Court by order dated 12-2-2019 rejected appellant's application filed under Order 39 Rule 1 and 2 read with section 151 of C.P.C.

5. Being aggrieved, the appellant preferred this misc. appeal.

6. **Point for determination** : -

There are following points for determination in the case in hand :-

- i. Whether prima facie case is in favour of the appellant ?
- ii. Whether balance of convenience is in favour of appellant ?
- iii. Whether there are possibilities of causing irreparable loss to the appellant ?

Point for determination No. (i), (ii) and (iii): Finding with reasons :-

7. Looking to the convenience points for determination No. (i), (ii) and (iii) are being disposed of simultaneously.

8. In the case, in hand, there is no material to show prima facie that respondents No. 1 and 2 are attempting to sell or alienate the disputed land or any part thereof. There is no material which indicate prima facie that respondents No. 1 and 2 are trying to manipulate the revenue records regarding disputed land. Thus, this Court finds that there is no prima facie case, balance of convenience in favour of the appellant, there is no possibility of causing irreparable loss to appellant. Thus, this Court decided points for determination No. (i), (ii) and (iii) accordingly.

9. Consequently, this Court finds that instant misc. appeal deserves to be and is hereby dismissed.

10. Appellant shall bearing his own costs as well as costs of respondents No. 1 and 2 also.

11. A memo of costs be drawn up.

12. The trial Court is directed to dispose of the case as soon as possible.

Sd/-
(Sharad Kumar Gupta)
Judge