

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 156 of 2020**

- Kishan Lal Chaturvedi, S/o Sannu Lal Chaturvedi, Aged About 69 Years R/o Subhash Nagar, Gond Para, Near Dr. Dubey Clinic, Bilaspur, Tahsil And District Bilaspur Chhattisgarh

---- Appellant**Versus**

1. Kewra Bai, D/o Fekan, W/o Punni Lal Suryavanshi, R/o Aawas Para, Near Suryavanshi Samudayik Bhawan, Chichirda, Tahsil Takhatpur, District Bilaspur Chhattisgarh
2. Gopal Suryavanshi, S/o Mathura Prasad, Aged About 35 Years R/o Suryavanshi Mohalla, Sakri, Sub - Tahsil Sakri, Tahsil Takhatpur, District Bilaspur Chhattisgarh
3. Madhav Suryavanshi, S/o Mathura Prasad Aged About 30 Years R/o Suryavanshi Mohalla, Sakri, Sub - Tahsil Sakri, Tahsil Takhatpur, District Bilaspur Chhattisgarh
4. Udho Suryavanshi, S/o Mathura Prasad, Aged About 25 Years R/o Suryavanshi Mohalla, Sakri, Sub - Tahsil Sakri, Tahsil Takhatpur, District Bilaspur Chhattisgarh
5. Savitri Suryavanshi, W/o Mathura Prasad, Aged About 65 Years R/o Suryavanshi Mohalla, Sakri, Sub - Tahsil Sakri, Tahsil Takhatpur, District Bilaspur Chhattisgarh
6. Bhulau Ram, S/o Dulari Suryavanshi, Aged About 65 Years R/o Saida Road, Sakri, Tahsil Takhatpur, District Bilaspur Chhattisgarh
7. State Of Chhattisgarh, Through The Collector, Bilaspur District : Bilaspur, Chhattisgarh

--- Respondent

For Appellant	:	Mr. Ravindra Agrawal, Advocate.
For State/Respondent No.7	:	Mr. Ravish Verma, G.A., on advance copy.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****02/09/2020**

1. Heard on admission.
2. Learned counsel for the appellant argued that the learned trial Court

committed error of law in rejecting plaint even though from plaint, a triable cause of action was disclosed. He would argue that the appellant had purchased two separate lands from defendant No.1-Kewra Bai for a valid consideration by registered sale deed dated 09.12.2009 and acquired title. The appellant pleaded that he was bona fide purchaser and paid Rs.8,60,000/-. It was only later on that the appellant came to know that against Kewra Bai, Bhulau Ram had filed suit for specific performance of contract in respect of one of the lands admeasuring 0.75 acres situated in Khasra No.20 village Sakri and ex-parte decree has been passed in favour of Bhulau Ram on 24.04.2008. Learned counsel for the appellant would argue that the appellant has now filed suit for declaration and permanent injunction on the pleadings that he had purchased the aforesaid land admeasuring 0.75 acres comprised in Khasra No.20 of Village-Sakri and as he was not a party either in the suit or even in the execution proceedings, as he was not made party in execution proceedings, though he had purchased the said land in 2009, order if any passed in the execution proceedings or any subsequent execution of sale deed in favour of Bhulau Ram through Court, it would not bind him. It is argued that these plaint allegations made out a triable cause of action because it was specifically pleaded that the defendant-Bhulau Ram was attempting to take possession of the land in dispute claiming that he is the decree holder and sale deed executed in his favour in execution of decree of specific performance of contract. According to the learned counsel for the appellant, though a decree was passed on 24.04.2008 in respect of the disputed land in favour of Bhulau Ram and against Kewra Bai, but the execution proceedings had remained pending and no sale deed in execution of decree of specific performance was executed in favour of Bhulau Ram so as to confer any title in respect of land in dispute and before that, a sale deed was executed by Kewra Bai in favour of appellant on 09.12.2009 transferring valid title in his favour. A subsequent execution of sale deed in favour of Bhulau Ram in execution of decree in specific performance would neither nullify the sale deed dated 09.12.2009 nor would confer any valid title on decree holder/purchaser Bhulau Ram on the strength of sale deed executed in execution of decree of specific performance passed against Kewra Bai in his favour.

3. We have heard learned counsel for the parties.

4. The entire case of the plaintiff and the relief sought therein are based on sale deed dated 09.12.2009 in respect of the land in dispute situated in Khasra No.20 of village Sakri on the basis of the pleadings contained in the plaint, it is plaintiff's own case that in respect of the land in dispute, suit was filed by Bhulau Ram against Kewra Bai and a decree was also passed in favour of Bhulau Ram and against Kewra Bai on 24.04.2008. The plaintiff is claiming title over the property on the basis of sale deed dated 09.12.2009 executed subsequent to passing of decree in favour of Bhulau Ram and against Kewra Bai involving the disputed property. Kewra Bai was defendant in the suit filed by Bhulau Ram. Any sale transaction made by her in respect of disputed land was subject to final decree that could be passed and decree in specific performance was passed in favour of Bhulau Ram on 24.04.2008 and during the pendency of execution case, Kewra Bai the judgment debtor executed sale deed in favour of appellant herein. A decree was passed in favour of Bhulau Ram and against Kewra Bai in respect of the disputed land Kewra Bai did not disclose to the appellant that a decree was passed in favour of Bhulau Ram. True it is till execution of sale deed in favour of appellant, sale deed in execution of decree of specific performance was not executed in favour of Bhulau Ram, nevertheless, such sale deed did not give the appellant a triable cause of action because of transactions in respect of the property in dispute are subject to judgment and decree passed in favour of Bhulau Ram and against Kewra Bai, therefore, no case is made out warranting interference.

5. The appeal is therefore dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge