

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.1002 of 2019

- Anjori Minj S/o Jitu Minj Aged About 55 Years Occupation Agriculturist, Cast Uraon, R/o Village Gopalpur, Tahsil And District Raigarh Chhattisgarh

---- Petitioner

Versus

1. Sunil Shrivastava S/o Lakhanlal Shrivastava, R/o Ward No. 01, Kotra Road, Beside Post Office Colony, Raigarh Tahsil And District Raigarh Chhattisgarh
2. Smt. Kiran Shrivastava W/o Suresh Kumar Shrivastava Aged About 52 Years R/o Chakardharnagar, Near Water Tank, Raigarh, Tahsil And District Raigarh Chhattisgarh
3. State Of Chhattisgarh Through Collector, Raigarh District Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Amit Sharma, Advocate.
For respondent No.1 & 2	:	Mr. Priyank Rathi, Advocate.
For respondent No.3	:	Dr. Arijit Tiwari, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10/02/2020

1. This petition has been brought being aggrieved by the order dated 28.11.2019 passed by the trial Court in Civil Suit No.365A/2019 pending before the Court of First Civil Judge, Class-I, Raigarh, by which the application filed by respondent has been allowed and the petitioner/plaintiff has been ordered to make proper valuation of the suit and make payment of Court fees accordingly.
2. Learned counsel for the petitioners submits that the dispute in the case

is this that the property on which the plaintiff is claiming title is based on a sale deed in his favour, that property appears to be the same regarding which there is a sale deed in favour of the respondent. Therefore, a property once sold out cannot be resold and on this basis the suit only for declaration is maintainable and accordingly the suit has been valued and filed. Hence, the order of the trial Court is erroneous which is liable to be set aside.

3. Learned counsel for respondents No.1 and 2 submits that no error has been committed by the trial Court. The petitioner/plaintiff has very clearly prayed for consequential relief and therefore, the evaluation has to be made according to the provision under Section 7(IV)(C) of the Court Fees Act. The consequential relief for declaration is sought which includes declaration of a sale deed to be void ab-initio which has a valuation of it, therefore, the plaintiff is not at liberty to make evaluation of his own.
4. Reliance has been placed on the judgment of Supreme Court in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh & Ors.** in Civil Appeals decided on 29.03.2010 in Civil Appeals No.2811-2813 of 2010 and on the judgment of this High Court, the case of **Chhattisgarh Motor Winding Vs. Madhya Pradesh Financial** reported in **2006(1) MPHT 69 CG.**
5. Heard learned counsel for the parties and also perused the documents present.
6. On perusal of the copy of plaint filed, it is found that the description of the property of the petitioner and the respondent does not match, however, the petitioner wants to assert that the property that has been sold by sale deed dated 20.07.2018 to private respondent is the same

on which he is claiming title and on that basis, he has prayed that the sale deed in favour of the respondents may be declared ab-initio.

7. There is requirement of proof to show that the sale deed standing in favour of the respondents is a fraudulent sale deed. It would have been better for the petitioner/plaintiff to make a claim that the sale deed dated 20.08.2018 has no binding effect on the title of the petitioner which would have been considered as a prayer for declaration simplicitor, however, present relief prayed that amounts to prayer of cancellation of that sale deed, therefore, that is a consequential relief which he has not mentioned clearly in the relief clause of the plaint and when the consequential relief which can be valued on some basis then the plaintiff is not at liberty to make his own valuation for the same. Hence, I do not find any reason to interfere with the impugned order. The petition is without any substance which is dismissed.
8. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge