

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**First Appeal No.27 of 2012****Reserved on 07.04.2021**
Pronounced on 12.04.2021

Smt. Rekha Tekwani, W/o Om Prakash Tekwani, aged about 35 years, resident of Civil Lines, Raipur, Tahsil and District Raipur (C.G.) (Plaintiff)

---- Appellant**Versus**

1. Chhattisgarh Project India Private Limited, through its President, Aashirwad Tower, Near Raj Talkies, Tahsil and District Raipur (C.G.)
2. Chhattisgarh Project India Private Limited, through its Lokendra Pawar, resident of Mahavir Nagar, Raipur (C.G.)
3. Chhattisgarh Project India Private Limited, through its Anil Parakh, Block No. 28, Aashirwad Tower, Near Raj Talkies, Raipur, Tahsil and District Raipur (C.G.) (Defendants)

---- Respondents

For Appellant	:	Shri Amit Soni, Advocate
For Respondents	:	Shri Ashish Surana, Advocate

Hon'ble Shri Justice Sanjay S. Agrawal**C.A.V. Judgment/Order**

1. This Appeal has been preferred by the Plaintiff under Section 96 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') questioning the legality and propriety of the judgment and decree dated 07.12.2011 passed in Civil Suit No.2-A/2011, whereby the trial Court has dismissed the Plaintiff's claim. The parties to this appeal shall be referred hereinafter as per their description before the Court below.
2. Briefly stated the facts of the case are that the Plaintiff instituted a suit seeking cancellation of the registered deed of sale dated

26.04.2005 (wrongly mentioned in the plaint as 01.01.2005) executed by her in favour of the Defendants – Chhattisgarh Project India Private Limited and also for damages. According to the Plaintiff, the alleged registered deed of sale was executed in relation to the property in question bearing Kh.No.302/3 admeasuring 0.141 hectare situated at Bhatgaon, Tahsil and District Raipur on the basis of the two agreements, both dated 29.04.2004, as according to it, the Defendants were required to alienate 10,000 sq.ft. of their land in lieu thereof. It is pleaded further that since the Defendants have not complied with the terms and conditions stipulated therein for not alienating the alleged 10,000 sq.ft. of land, therefore, the Plaintiff has been constrained to institute the suit in the instant nature.

3. While denying the execution of the alleged agreements, it is pleaded by the Defendants that the alleged registered deed of sale was duly executed by the Plaintiff after obtaining the entire sale consideration, and therefore, the claim as made based upon a false plea deserves to be dismissed.
4. After considering the evidence led by the parties, it was held by the trial Court that the alleged registered deed of sale dated 26.04.2005 (Ex.P.3) was executed by the Plaintiff in favour of Chhattisgarh Project India Private Limited upon receiving the entire sale consideration from it. It held further that neither the alleged agreements (Ex.P.1 & Ex.P.2) was executed, as alleged by the Plaintiff nor the alleged sale was made in pursuance

thereof. As a consequence of it, the trial Court has dismissed the claim, which has been impugned by way of this appeal.

5. According to learned counsel appearing for the Appellant/Plaintiff, the Court below has committed an illegality in holding that the alleged registered deed of sale was not executed in pursuance of the terms and conditions stipulated in the alleged agreements and thereby erred further in refusing to cancel the same.
6. On the other hand, learned counsel for Respondents /Defendants has supported the judgment and decree under appeal as passed by the trial Court.
7. I have heard learned counsel for the parties and perused the entire record carefully.
8. The question which arises for determination in this appeal is as to whether the registered deed of sale dated 26.04.2005 (Ex.P.3) executed by the Plaintiff in favour of Chhattisgarh Project India Private Limited could be held to be invalid for the non-compliance of the alleged agreements (Ex.P.1 & P.2), both executed on 29.04.2004?
9. Ex.P.3 is the registered deed of sale, purported to have been executed by the Plaintiff – Smt. Rekha Tekwani in favour of Chhattisgarh Project India Private Limited, whereby the property in question bearing Kh.No.302/3 admeasuring 0.141 hectare situated at village Bhatgaon, Tahsil and District Raipur

was sold by her for a consideration of Rs.50,500/-. According to the Plaintiff, since the Defendants have failed to alienate 10,000 sq.ft. of their land in pursuance of the terms and conditions stipulated in the alleged agreements (Ex.P.1 & Ex.P.2), therefore, it deserves to be cancelled. However, a bare perusal of the recitals made in the alleged sale would show that it has not been executed as per the terms and conditions made in those agreements, as alleged by the Plaintiff. That apart, it has not been mentioned anywhere in the alleged agreements that for non-compliance of the terms and conditions of it, the alleged registered deed of sale could be held to be invalid. On the contrary, it is mentioned therein that the aggrieved party to it will have a right to file a suit for specific performance of contract before the Court having its territorial jurisdiction and, admittedly no suit as such has been instituted till date. It is also not pleaded anywhere in the plaint that the sale consideration was not paid to her nor has been pleaded that it was got executed illegally from her, so as to hold that the execution of the registered deed of sale being invalid could be cancelled, as alleged by the Plaintiff based upon those agreements (Ex.P.1 & Ex.P.2).

10. Be that as it may, the registered deed of sale dated 26.04.2005 (Ex.P.3) was found to be duly executed in accordance with the provisions prescribed under Section 54 of the Transfer of Property Act, 1882 by the Plaintiff while alienating the property in question owned by her upon receiving the entire sale

consideration of Rs.50,500/-. In view of that, I do not find any infirmity in the findings recorded by the trial Court so as to call for any interference in this appeal.

11. Consequently, the appeal, being devoid of merits, is accordingly dismissed. No order as to costs.
12. A decree be drawn accordingly.

Sd/-
(**Sanjay S. Agrawal**)
Judge