

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 64 of 2021**

- Shrawan Kumar S/o Bhuneshwar Yadav Aged About 65 Years R/o Gondkhamhi, Tahsil Lormi, District Bilaspur, Now Mungeli, Chhattisgarh, District : Mungeli, Chhattisgarh

---- Applicant

Versus

1. Smt. Aas Kunwar W/o Kheduram Satnami Aged About 48 Years R/o Village Maharpur, Tahsil Lormi, District Bilapur Now Mungeli, Chhattisgarh, District : Mungeli, Chhattisgarh
2. Asharam S/o Kartik Ram Yadav Aged About 85 Years R/o Village Maharpur, Tahsil Lormi, District Bilaspur Now Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh
3. State Of Chhattisgarh Through Collector, Bilaspur Now Mungeli, Chhattisgarh, District : Mungeli, Chhattisgarh

---- Respondents

For Applicant	:	Shri Ravi Maheshwari, Advocate
For Respondent No.1	:	Shri Malay Shrivastava, Advocate
Respondent No.2 is reported to be dead.		
For Respondent No.3/State	:	Shri D.C. Verma, G.A.

Single Bench: Hon'ble Shri Justice Sanjay S. Agrawal
Order On Board

19.7.2021

1. Heard on I.A.No.1/2021, an application filed by the Applicant- Shrawan Kumar seeking transposition of himself in place of the deceased-sole appellant namely-Smt. Boond Kunwar, who was the Appellant in Appeal being Second Appeal No. 516/2004, which was dismissed as abated owing to her demise on 22.12.2014, issue-less.
2. From perusal of the record, it appears that a suit for declaration of

title with regard to the land in question bearing Khasra No. 92/01 area 0.73 acres, Khasra No.40 area 0.41 acres and Khasra No.93/3 area 0.52 acres, total admeasuring 1.66 acres, situated at village Maharpur, Tehsil Lormi, District Bilaspur, was instituted by one Smt. Aas Kunwar on the ground that she acquired the same under the registered deed of sale dated 1.2.1997, purported to have been executed in her favour by defendant 2- Smt. Boond Kunwar and her husband namely- Asha Ram, Defendant No.1. In the said suit, Applicant- Shrawan Kumar, who was the nephew of Defendants 1 and 2, was impleaded as Defendant No.3 as he was disturbing her ownership by claiming his right on the basis of adverse possession.

3. The aforesaid suit was registered as C.S. No.39-A/1998 and the trial Court vide its judgment and decree dated 29.7.2003, dismissed the same by holding that the Plaintiff has got it on the pretext of execution of power of attorney. The said finding was reversed in appeal, being F.A.No.4-A/2003, wherein it was held by the lower appellate court that the Plaintiff- Smt. Aas Kunwar has acquired her right, title and interest over the suit property based upon the registered deed of sale dated 1.2.1997.
4. Being aggrieved, the Defendant 2- Smt. Boond Kunwar had preferred the appeal which was registered as Second Appeal No.516/2004 and during the pendency of it, she died issue-less on 22.12.2014 and accordingly, the appeal was dismissed as abated

vide order dated 26.4.2017.

5. According to the Applicant- Shrawan Kumar, since he was the adopted son of the said deceased- sole Appellant(Boond Kunwar), therefore, he may be permitted to be transposed from Respondent No.3 to her place in order to get the dismissal of the appeal restored to its original number. However, a bare perusal of the cause-title of the petition as well as the cause-title of the memo of said Second Appeal, would show that his natural father's name, namely- Bhuneshwar Yadav, has still been shown as his father. That apart, no deed of adoption has been attached with the petition so as to hold that he was the adopted son of the said sole Appellant- Smt. Boond Kunwar as alleged by him. In absence thereof, it is difficult to observe that the interest of the said Boond Kunwar has been devolved upon him.
6. Accordingly, the application marked as I.A.No1/2021 is rejected and consequently, the other applications of this petition are also rejected.
7. No order as to cost.

Sd/-
(Sanjay S. Agrawal)
JUDGE