

HIGH COURT OF CHHATTISGARH, BILASPUR**First Appeal No. 61 of 2017**

- Smt. Rajmat Bai, D/o Dhalgan, aged about 60 years, Caste : Gond, R/o Kududand Bilaspur, Tahsil & District Bilaspur (C.G.), Present Address : R/o village Chherkabandha, Piprapara, Tahsil Kota, District Bilaspur (C.G.)

---- Appellant/Plaintiff**Versus**

1. Sukwara Bai, W/o Ratan Singh, aged about 60 years,
2. Rajkumari, D/o Ratan Singh, W/o Ghasiram, aged about 30 years,

Both are resident of Village Chherkabandha, Piprapara, Tahsil Kota, District Bilaspur (C.G.)

3. Parabuli, W/o Ramsingh, aged about 59 years, R/o Village Chherkabandha, Piprapara, Tahsil Kota, District Bilaspur (C.G.)
4. State of Chhattisgarh Through The Collector, Bilaspur, District : Bilaspur (C.G.)

---- Respondents

For Appellant : Mr. Shashi Kumar Kushwaha, Advocate.
 For Respondents No. 1 & 2 : Mr. Ravindra Agrawal, Advocate.
 For Respondent No. 4/ State : Mr. Arijeet Tiwari, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Shri Justice N.K. Chandravanshi****Judgment on Board by Justice Prashant Kumar Mishra****01/04/2021**

1. This appeal is directed against the judgment and decree dated 5th December, 2016 rendered by the Court of 9th Additional District Judge, Bilaspur, District Bilaspur. dismissing appellant's/plaintiff Civil Suit

No.390-A/14.

2. Facts of the matter lie within a narrow compass. The appellant / plaintiff purchased the suit land bearing Khasra Nos. 202, 241/1, 314/1, area 1.23, 1.56 & 0.61 acres, total Khasra No. 3, area 3.42 acres from defendant No. 3 – Parabuli and respondent No. 4 – Bundkunwar {since deceased, hence deleted from the cause title} by registered sale deed dated 29.07.1999. The same lands were again sold by the defendants No. 3 and 4 in favour of defendant No. 1 – Sukwara Bai and defendant No. 2 – Rajkumari by registered sale deed dated 19.03.2010. In this suit, appellant/plaintiff has prayed for a decree for declaration of the sale deed dated 19.03.2010 as null and void and for permanent injunction to restrain the defendants from interfering in her possession.
3. The defendants No. 1 to 3 contested the suit on submission that the plaintiff has already filed Civil Suit No. No. 37-A / 2012 before Civil Judge, Class-I, Kota, therefore, the present suit is not maintainable. It was also pleaded that the sale deed dated 29.07.1999 was a result of fraud played upon the defendants, therefore, the sale deed has already been declared void by an order passed by Sub Divisional Officer (Revenue), Kota on 26.07.2006, in exercise of jurisdiction under Section 170 - B of the Chhattisgarh Land Revenue Code, 1959 (henceforth "Code, 1959"). It is thus pleaded by defendants No. 1 to 3 that the appellant/plaintiff has no title in herself, therefore, the suit deserves to be dismissed.
4. The trial Court has framed two material issues in respect of validity of the sale deeds dated 29.07.1999 and 19.03.2010. Although, both the parties

have filed and relied on several documents in support of their respective pleadings and oral evidence, the material issue being pure question of law, we would advert to the core issue of validity of the sale deeds.

5. Indisputably, the sale deed dated 29.07.1999 in favour the appellant/plaintiff suffered proceedings under Section 170-B of the Code, 1959 in the court of Sub Divisional Officer (Revenue), Kota at the instance of one Paharu Singh and eventually by order dated 26.07.2006, Ex.D-21, the sale deed has been declared void. This order of SDO (Revenue), Kota has not been assailed further before any superior revenue court by the appellant/plaintiff. Thus, at this stage of the proceedings between the parties, the order dated 26.07.2006 (Ex.D-21) is binding on the appellant/plaintiff and defendants No. 3 and 4. If the sale deed in favour of appellant/plaintiff has been declared void, her plea for declaring the sale deed dated 19.03.2010 executed by defendants No. 3 & 4 in favour of defendants No. 1 & 2 is not maintainable for the reason that the appellant/plaintiff herself has no title over the suit land. For the same reason, appellant's prayer for issuance of permanent injunction against the defendants has rightly been dismissed.
6. It is settled law that a person, who has no title to the property, cannot seek an order of restrain against the true owner.
7. The defendants No. 1 & 2 having lawfully purchased the property from defendants No. 3 & 4 cannot be enjoined by issuance of decree for permanent injunction. While deciding issue No. 3, the trial Court has recorded a finding that in the revenue records of the year 2012-2013 filed as Ex.P-1, name of defendants No. 1 & 2 are recorded as owner in possession.

Therefore, the trial Court has denied decree for permanent injunction on this count also.

8. In view of the above, since admittedly the order passed by the Sub Divisional Officer, Kota vide Ex.D-21 holds the field, the trial Court has rightly held that the appellant / plaintiff does not acquire any title out of the sale deed dated 29.07.1999.
9. The appeal has no substance. It fails and is hereby dismissed. The judgment and decree passed by the trial Court is hereby affirmed.
10. Both the parties shall bear their respective costs.
11. A decree be drawn-up accordingly.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(N.K. Chandravanshi)
Judge