

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 235 of 2021

1. Narmada Prasad S/o Late Tikaram Bhardwaj Aged About 62 Years R/o Village Sendri, Tahsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Gaya Prasad S/o Late Tikaram Bhardwaj Aged About 45 Years R/o Village Sendri, Tahsil And District Bilaspur Chhattisgarh
3. Manharan S/o Late Tikaram Bhardwaj Aged About 40 Years R/o Village Sendri, Tahsil And District Bilaspur Chhattisgarh

---- Petitioners

Versus

1. Amarotin Bai D/o Late Mahabali W/o Bedram Banjare Aged About 79 Years R/o Satnami Mohalla, Paraghat (Jayramnagar), Tahsil Masturi District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Sukwara Bai D/o Late Bahabali W/o Police Ram Kurre Aged About 69 Years R/o Village Bhanesar (Jayramnagar), Tahsil Masturi District Bilaspur Chhattisgarh
3. Kuwara Bai W/o Late Amar Das Aged About 70 Years R/o Satnami Mohalla, Paraghat (Jayramnagar), Tahsil Masturi District Bilaspur Chhattisgarh
4. State Of Chhattisgarh Through The District Collector Bilaspur Chhattisgarh

---- Respondents

For Petitioners	: Shri Neeraj Choubey, Advocate.
For respondents No.1 to 3	: None.
For respondent No.4 / State	: Ms. Astha Shukla, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29.11.2021

Heard.

1. This petition has been brought being aggrieved by the order dated 12.3.2021 passed in Misc. Civil Appeal No.13 of 2021, whereby the appeal filed by the petitioner has been dismissed upholding the order of the learned trial Court.
2. It is submitted by counsel for the petitioners that the land in question was purchased by the father of the petitioners by a registered sale deed

dated 30.5.1962 from Amar Das. The land and the house of the petitioners have been acquired by the State authorities for widening of road from Bilaspur to Khatghora. The compensation has been determined. The private respondents taking advantage of the non-correction of the revenue record are making claim over the compensation order. A civil suit has been filed by the petitioners praying for reliefs of declaration and permanent injunction against the private respondents. The application under Order XXXIX Rule 1 & 2 of the CPC praying for temporary injunction to restrain the State authorities from disbursing the compensation in favour of the private respondents was dismissed by the trial Court and the order of the trial Court has been upheld by the Appellate Court by the impugned order.

3. It is submitted that the petitioners have a *prima facie* case in their favour on the basis of the registered sale deed dated 30.5.1962. The entries in the revenue record are not conclusive proof of title, therefore, the finding of the learned Courts below are erroneous and unsustainable.
4. The private respondents are unrepresented although notice has been served upon them.
5. Learned State counsel representing for respondent No.4 opposes the submissions.
6. Considered on the submissions. The petitioners' claim is based on the sale deed dated 30.5.1962, which is a registered document. Learned trial Court has made observations regarding some discrepancies in the document. The sale deed document dated 16.5.1962 is subject to proof in the trial, thus, this sale deed which has not been specifically challenged by the private respondents except for making denial of the averments of the plaint, therefore, it was a fit case in which the learned trial Court and the Appellate Court both should have taken into

consideration of these facts and held that there is a *prima facie* case present in favour of the petitioners. In case, the petitioners have entitlement and the amount of compensation is disbursed then that may not be a irreparable loss but there is still the question alive as to who is the person entitled for the compensation. Hence, disbursement of compensation to such person, who has no entitlement, which may be either the petitioner or the private respondent by itself would be against the law and in that case, that can be considered as irreparable loss, therefore, the balance of convenience should be to pass an order of restraint on the disbursal of the compensation amount.

7. On the basis of the aforesaid observations, this petition is allowed. The order of the learned Appellate Court and the order of the learned trial Court are set aside. The application filed by the petitioners under Order XXXIX Rule 1 & 2 of the CPC is allowed. Respondent No.4 is directed not to disburse the amount of compensation to any of the parties until the disposal of the civil suit filed by the petitioners. Learned trial Court is also directed to take up the proceedings in the case expeditiously and decide the same at the earliest, preferably, within a period of one year from the date of receipt of this order.

Sd/-
(Rajendra Chandra Singh Samant)
Judge