

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 138 of 2021**

1. Lokesh Kumar, S/o Late Baldau Chandrakar, aged about 47 years,
2. Kumari Preetibala Chandrakar, D/o late Baldau Chandrakar, aged about 52 years,

Both are R/o Village & Post Office Achhoti, PS & Tahsil Kurud, District Dhamtari (CG)

---- Appellant

Versus

1. Rama, S/o late Makhanlal Chandrakar, aged about 45 years,
2. Lachhu S/o late Makhan, aged about 46 years,
3. Yas Kumar, S/o late Makhanlal Chandrakar, aged about 52 years,
4. Tekram, S/o Makhanlal Chandrakar, aged about 55 years,

All are R/o Village & Post Office Achhoti, PS & Tahsil Kurud, District Dhamtari (CG)

---- Respondent

For Appellant : Shri Uttam Pandey, Advocate.

PROCEEDING THROUGH VIDEO CONFERENCING

Hon'ble Shri Prashant Kumar Mishra, Ag CJ &
Hon'ble Shri Parth Prateem Sahu, J

22/06/2021 :

1. This Writ Appeal would call in question the order passed by the learned Single Judge allowing the writ petition preferred by the respondents No.1 to 4, thereby setting aside the order passed by the Board of Revenue, Chhattisgarh on 14.8.2014 (Annexure-P/1) and that of the Additional Commissioner dated 21.6.2013 (Annexure-P/7) (Annexure Number is referred as has been numbered in the writ

petition).

2. Facts of the matter, briefly stated, are that Makhanlal Chandrakar (father of the writ petitioners/respondent Nos.1 to 4) executed a sale deed in favour of Prabhakar Rao on 10.4.1972. The said Prabhakar Rao executed a sale deed in favour of the appellants on 19.6.2006. In a ceiling case under the Chhattisgarh Ceiling on Agricultural Holdings Act, 1960 (for short 'the Act, 1960') the competent authority i.e. the SDO (R), Dhamtari passed an order on 29.10.1984 declaring the sale deed in favour of Prabhakar Rao to be *void ab initio*. The Appeal preferred by Prabhakar Rao before the Board of Revenue was dismissed on 2.1.1986 (Annexure-P/3) and thereafter his writ petition bearing MP No.1610/1986 was dismissed by the M.P. High Court on 27.2.1987. Prabhakar Rao did not challenge the order passed by the M.P. High Court, therefore, it has attained finality.
3. The present appellants thereafter moved an application under Section 250 of the CG Land Revenue Code (henceforth 'the Code') seeking recovery of possession from the writ petitioners. The application was initially dismissed by the Tehsildar, Kurud and the Appeal was also dismissed by the SDO (R), Kurud. However, the Additional Commissioner, Raipur allowed the appellants' Appeal vide order dated 21.6.2013 (Annexure-P/7) and thereafter the Board of Revenue dismissed the Appeal preferred by the respondents No.1 to 4.
4. The writ petition has been allowed on the ground that the sale deed in favour of Prabhakar Rao having been declared void, he could not have sold the property to the present appellants, therefore, the Additional Commissioner and the Board of Revenue were not justified

in passing the order against the respondents No.1 to 4 directing them to deliver possession of the property to the present appellants.

5. Shri Uttam Pandey, learned counsel for the appellants argued that subsequently vide order dated 9.1.1989 competent authority under the Act, 1960 found that the original holder Makhanlal Chandrakar and his family members were not possessed of any surplus land, therefore, Shri Pandey would argue that the sale deed executed by Makhanlal Chandrakar in favour of Prabhakar Rao gets revived and likewise, the sale deed executed by Prabhakar Rao in favour of the appellants also become valid and the application under Section 250 of the Code was maintainable.
6. Having heard learned counsel for the appellants at length, we have not found any merit in the arguments. The sale deed dated 10.4.1972 in favour of Prabhakar Rao was declared void in a ceiling proceedings and the said order attained finality when the writ petition preferred by Prabhakar Rao was dismissed by the MP High Court on 27.2.1987. Even if the ceiling proceeding later on found that Makhanlal Chandrakar was not holding any surplus land, the sale deed dated 10.4.1972 would not revive. It is not a case where at any subsequent stage the competent authority has passed any order reviving the sale deed, the litigation concerning validity of the sale deed executed by Makhanlal Chandrakar in favour of Prabhakar Rao attained finality, therefore, the same issue cannot be re-opened now to confer title on Prabhakar Rao for execution of the sale deed by him in favour of the present appellants.
7. The learned Single Judge has rightly allowed the writ petition

preferred by the respondents No.1 to 4.

8. There is no scope for interference in this intra Court Appeal, the same deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Barve