

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CR No. 50 of 2021Mahesh Kodwani **Versus** Iqubal Singh Budhreja

13.12.2021	Shri Sudeep Johri, counsel for the applicant/petitioner. Shri Shobhit Mishra, counsel for Non-applicant No.1. Aruments heard finally. Order dictated in open Court. Passed, signed and dated separately. Sd/- (Sanjay S. Agrawal) Judge
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HIGH COURT OF CHHATTISGARH, BILASPUR**CR No. 50 of 2021**

- Mahesh Kodwani S/o Shri Deepak Kodwani Aged About 28 Years R/o Behind Dr. Vadhvani Nursing Home, Katora Talab, Raipur, Tahsil And District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Petitioner**Versus**

1. Iqbal Singh Budhreja S/o Late Chunnilal Budhreja Aged About 93 Years R/o House No. 9, New Panchsheel Nagar, Civil Lines, Thana Civil Lines, Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Smt. Vidhya Devi Kodwani W/o Late Shri Chetan Das Kodwani R/o Behind Dr. Vadhvani Nursing Home, Katora Talab, Raipur, Tahsil And District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. Shri Hasanand Kodwani S/o Late Shri Chetan Das Kodwani Aged About 45 Years R/o Behind Dr. Vadhvani Nursing Home, Katora Talab, Raipur, Tahsil And District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For Petitioner: Shri Sudeep Johri, Advocate.
 For Respondent No.1: Shri Shobhit Mishra, Advocate.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J**Order On Board****13/12/2021**

1. Challenge to this petition under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') is the order dated 06.10.2021 passed by the Executing Court in Execution Case No. 731/17, whereby the application filed by the Petitioner under Section 151 CPC praying for not to issue the possession warrant with regard to the property purchased by him under the registered deed of sale dated 10.09.2013, has been rejected.
2. Shri Sudeep Johri, learned counsel appearing for the Petitioner, while furnishing the copy of registered deed of sale dated 10.09.2013 (Annexure

A/2), submits that since the Petitioner has purchased the shop constructed over 120 square feet of land situated at Kh.No.17/1, therefore, the Court below has erred in passing the order impugned while rejecting the application filed in this regard under Section 151 CPC. It is contended further that since the alleged property was purchased by the Petitioner much prior to passing of the decree dated 02.12.2016 (Annexure A/3), therefore, the possession warrant in relation to the property held by him ought not to have been issued. Having failed to consider the alleged registered deed of sale in its proper manner, the Court below has committed an illegality in issuing the possession warrant as such. The order impugned is, therefore, liable to be set aside.

3. On the other hand, Shri Shobhit Mishra, learned counsel appearing for the respondent No.1/decreed holder has supported the order impugned as passed by the Court below.

4. I have heard learned counsel appearing for the parties and perused the entire papers annexed with this petition carefully.

5. From perusal of the alleged registered deed of sale (Annexure A/2) dated 10.09.2013, purported to have been executed by the judgment-debtors, namely Smt. Vidya Devi and Hasanand Kodwani in favour of the Petitioner – Mahesh Kodwani, would show that the Municipal House No. 42/876 situated at Kh.No.17/1 total admeasuring 516 square feet (47.95 square meter) was held by them and out of it, a shop constructed over 120 square feet of land alone was sold and it appears further that after due consideration of the alleged sale, the Executing Court has directed for the issuance of possession warrant with regard to the shop constructed with 135 square feet of land, which is distinct from the alleged property held by the Petitioner.

6. In view thereof, I do not find any infirmity in the order impugned so as to call for any interference in this petition. The Revision Petition is accordingly dismissed at admission stage itself. No order as to costs.

Sd/-

(Sanjay S. Agrawal)
JUDGE