



HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 74 of 2021

1. Krishna Kumar Gupta S/o Late Thakurdin Gupta, Aged About 68 Years(wrongly mentioned as 65 years in cause title) R/o. Schoolpara Ward, Baikunthpur, District Korea Chhattisgarh
2. Ritesh Kumar Gupta, S/o Krishna Kumar Gupta, Aged About 44 Years(not mentioned by plaintiffs in cause title) R/o. Schoolpara Ward, Baikunthpur, District Korea Chhattisgarh

At present R/o Kanpur (Uttar Pradesh)

---- Appellants/Defendant Nos.1 & 2

Versus

1. Durga Prasad Gupta S/o Late Thakurdin Gupta, Aged About 60 Years R/o Schoolpara Ward, Baikunthpur, District Korea Chhattisgarh
2. Hetram Gupta, S/o Late Thakurdin Gupta, Aged About 58 Years R/o. Schoolpara Ward, Baikunthpur, District Korea Chhattisgarh
3. State Of Chhattisgarh Through Collector, Korea, District Korea Baikunthpur Chhattisgarh

---- Respondents/Plaintiffs

2	
21/09/2021	Shri Bhaskar Payashi, counsel for the Appellants. Shri Hari Agrawal, counsel for Respondent No.2, on Caveat. Shri Sanjeev Kumar Agrawal, P.L. for the State/Respondent No.3. Heard on I.A.No.2/2021, an application filed on 17.9.2021 under Order 41 Rule 5 read with Section 151 of the Code of Civil Procedure, 1908 which has been filed after disposal of the earlier application of similar nature decided on 15.9.2021. Learned counsel for the Appellants submits that the trial Court, without appreciating the registered deed of Power of Attorney executed



on 13.9.1985 (Ex.P-1), has erred in holding that the possession of the suit land was not handed over to Defendant No.2-Ritesh Kumar Gupta by his father Krishna Kumar Gupta (Defendant No.1), while executing the registered deed of sale dated 26.3.2012/30.6.2012. It is contended further that even without considering the documentary evidence, like Ex.D1 to Ex.D5, which are the receipts issued by *Aadim Jati Sewa Sahkari Samiti Maryadit Dhouratikra*, Village Janakpur, showing that the Defendants are in possession over the disputed property, the trial Court has erred in holding that they are not in possession over the suit land. It is, therefore, contended that if the parties are not directed to maintain the status quo with regard to the possession of the suit land and also in respect of correction of the revenue papers, then in the said event, it would cause an irreparable loss to the Appellants.

On the other hand, Shri Hari Agrawal, learned counsel appearing for Respondent No.2, submits that after due consideration of the contentions of the counsel for the parties, a similar kind of application, marked as I.A.No.1/2021 was disposed of on 15.9.2021 with a direction that none of the parties shall create third party interest with regard to the property in question pending decision of this appeal, and therefore, the application as made again while seeking the same relief, deserves to be rejected.

I have heard learned counsel for the parties and perused the relevant documents annexed with the said application carefully.

From perusal of the impugned judgment and decree, it appears that a registered deed of sale dated 26.3.2012, registered on 30.6.2012, purported to have been executed by father-Krishna Kumar Gupta in favour of his son- Ritesh Kumar Gupta, while acting as a Power of Attorney holder dated 13.9.1985, was found to be null and void as the same was executed much after the cancellation of the alleged Power of Attorney on 03.01.1989. That apart, the Defendants were not found in possession over the suit land as reflected from



paragraphs 33 and 34 of the impugned judgment and decree.

In view of the above, I am not inclined to entertain this application, particularly, when on an earlier occasion, the application of similar nature, marked as I.A.No.1/2021 was rejected on 15.9.2021.

The application, marked as I.A.No.2/2021 is accordingly, rejected.

Sd/-
(Sanjay S. Agrawal)
Judge



sunita