

(2023) 08 CHH CK 0070
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 430 Of 2015

Daiya Bai

APPELLANT

Vs

Praveer

RESPONDENT

Date of Decision : 28-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Code Of Civil Procedure, 1908 — Order 23 Rule 3

Citation : (2023) 08 CHH CK 0070

Hon'ble Judges : Rajani Dubey, J

Bench : Single Bench

Advocate : Dr. N. K. Shukla, Arvind Shukla, Priya Mishra, Shakti Singh Thakur, Somnath Verma, Bhaskar Payashi

Final Decision : Dismissed

Judgement

1. The instant writ petition has been preferred by the petitioner under Article 226 of the Constitution of India against the order dated 09.05.2015 passed by the Lok Adalat, Bench No.1, District Bilaspur in Case No.18-A/2014, whereby the suit of the plaintiffs i.e. the petitioner and the respondent No.6 was dismissed, as they voluntarily entered into compromise with the defendants i.e. respondent Nos.1 to 4.

2. Brief facts of the case are that the plaintiffs i.e. the petitioner and the respondent No.6 had filed a civil suit against the defendants/respondent Nos.1 to 4 for declaration of title and permanent injunction in respect of suit land bearing Khasra No.452 & 453/2, total area 3.89 acres, situated at Village Ameri, Tahsil Takhatpur, RIC Sakri, District Bilaspur. The respondent Nos.1 to 4 filed their written statement and denied the plaint averments and pleaded that the their ancestor Hemchand Mukherjee had purchased the aforesaid land on 24.01.1951 from the ancestor of the plaintiffs namely Sonsai, S/o Anandi. The matter was pending before the Trial Court and was put for compromise between the parties before the Lok Adalat on 09.05.2015 and upon amicable settlement of the matter

between the parties, the order was passed on 09.05.2015 itself, but after some time, the plaintiffs enquired the matter from the Office of the Deputy Registrar, Bilaspur and thereby they came to know under RTI that no such sale deed was executed in favour of defendant's ancestor namely Hemchand Mukherjee, thereafter a complaint was made before the Inspector General of Police, Bilaspur on 28.05.2015 and search report was also obtained through their counsel and subsequently FIR was also got registered against the defendants and thereafter the present petition has been filed by the petitioner/plaintiff No.1.

3. Learned counsel for the petitioner submits that the respondents Nos.1 to 4 have shown the forged and fabricated sale deed to the petitioner and respondent No.6 only to compromise the matter, thereby they cheated the plaintiffs. The petitioner is an old lady and the respondent No.6 is also a lady. The respondents Nos.1 to 4 got the compromise order dated 09.05.2015 passed by the Lok Adalat on the basis of forged and fabricated sale deed, therefore such compromise order is liable to be set-aside by this Court. He further submits that the petitioner enquired about sale deed from the Deputy Registrar, Bilaspur and obtained the information that on 24.01.1951, no sale deed was executed with regard to lands in question in favour of Hemchand Mukherjee, Son of K.N. Mukherjee. After knowledge of the above fact, the petitioner has appointed Advocate to obtain search report from the Office of Deputy Registrar, Bilaspur and Advocate has searched the matter and reported that no any sale deed was executed in favour of Hemchand Mukherjee, son of K.N. Mukherjee by Sonsai, son of Anandi. Therefore, the order of compromise passed by the Lok Adalat may kindly be set aside and the Civil Suit be restored to its original number for hearing before the Trial Court.

4. Learned counsel for the respondent No.6 supports the petitioner's claim.

5. Learned State counsel appearing for the respondent No.5 submits that the petitioner has not claimed any relief against the State, as such this petition against the respondent State is liable to be dismissed.

6. Learned counsel for the respondent Nos.1 to 4 submits that the plaintiffs i.e. the petitioner and respondent No.6 were well versed and had knowledge of this fact that the suit property was sold to Late Hemchand Mukherjee on 24.01.1951 and from the said sale deed, they are in actual physical possession. The petitioner voluntarily settled the matter on compromise before the Lok Adalat. The petitioner and the respondent No.6 and the respondent Nos.1 to 4 filed compromise application under Order 23 Rule 2 of CPC before the Trial Court. The statements of the plaintiffs were recorded on oath, thereafter the Lok Adalat passed the award. The sale deed was presented on 24.01.1951 before the Sub Registrar and the document was registered on 03.02.1951 by the Sub Registrar. The plaintiff on the basis of wrong report (Annexure-P/6) filed this writ petition on false and frivolous ground. The petition is devoid of any merit, as such the same deserves to be dismissed with heavy cost. Reliance has been placed on the judgments rendered by the Hon'ble Supreme Court in the matters of Ranjeet

Singh vs Ravi Prakash, reported in 2004 AIR SCW 4221 and Garment Craft vs Prakash Chand Goel, reported in AIR Online 2022 SC 27.

7. Heard learned counsel for the parties and perused the material available on record.

8. It is not disputed by the parties that on 09.05.2015, Civil Suit No.81-A/2014 was put before the Lok Adalat, Khand Peeth No.1, Bilaspur. On the said date, the award was passed. It is written in the award as under:-

The statements of the plaintiffs Daiya Bai and Geeta Bai were also recorded before the Trial Court on 09.05.2015 itself and application under Order 23 Rule 3 of CPC was also filed before the Trial Court, but subsequently the petitioner upon getting information under RTI Act about non executing of any sale deed in the year 1951 in favour of the defendants' ancestor filed a complaint against the defendants and subsequently an FIR has also been filed against them.

9. The petitioner has also filed search report on search being made of the sale deed through her counsel, wherein the sale deed is stated to be not registered before the Sub Registrar and copy of complaint as well as FIR registered against the defendants has also been filed by the petitioner. It is clear from the order sheet of the Trial Court that the plaintiffs were present before the Trial Court and they voluntarily got their statements recorded and entered into compromise and wanted to withdraw their suit and on the basis of their compromise, the award was passed by the Lok Adalat and the suit of the plaintiffs was dismissed.

10. The Hon'ble Apex Court in the matter of Garment Craft (supra) held in para 18 as under:-

18. Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal.¹ The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, ¹Celina Coelho Pereira (Ms) and Others v. Ulhas Mahabaleshwar Kholkar and Others , (2010) 1 SCC violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice. Explaining the scope of jurisdiction under Article 227, this Court in Estralla Rubber v. Dass Estate (P) Ltd.² has observed:-

"6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to." 2(2001) 8 SCC 97

11. In this case also, it is clear from the statements of the plaintiffs and order sheets of the learned Trial Court that the Lok Adalat after verifying the compromise application of both the parties passed the award and dismissed the suit of the plaintiffs. The petitioner filed this petition on the basis of search report as well as the complaint and FIR registered against the defendants. The respondents have filed copy of sale deed, but the petitioner did not file final report of police or any other document, which may show that the sale deed was forged or bogus. Only on this ground that the petitioner has filed FIR against the respondents, the compromise order passed by the Lok Adalat is not liable to be set aside.

12. As per the guidelines of the Hon'ble Apex Court, scope and ambit of exercise of power and jurisdiction by the High Court under Article 227 of the Constitution of India is very limited and it only involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals.

13. In view of the foregoing discussions and keeping in view the law laid down by the Hon'ble Supreme Court, this Court is not inclined to interfere in the matter.

14. Accordingly, the writ petition is dismissed. No order as to cost (s).