
(2016) 12 CHH CK 0010
In the Chhattisgarh High Court
Case No : W.P.(227) No. 245 of 2016

Prabhat Kumar Dubey

APPELLANT

Vs

Sandhya Goyal

RESPONDENT

Date of Decision : 14-12-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Specific Relief Act, 1963 — Section 20

Citation : (2017) AIRCC 1100

Hon'ble Judges : Shri Sanjay K. Agrawal, J.

Bench : Single Bench

Advocate : Mr. H.B. Agrawal, Senior Advocate with Mr. Badruddin Khan, Advocate, for the Petitioner; Mr. Ankur Agrawal, Advocate, for the Respondent No. 2

Final Decision : Dismissed

Judgement

Shri Sanjay K. Agrawal, J.—Invoking jurisdiction of this Court under Article 227 of the Constitution of India, this writ petition has been filed by defendant No.1, petitioner herein, by which the trial Court has allowed the plaintiff's application filed under Order 1, Rule 10 of the Code of Civil Procedure impleading subsequent purchaser - Smt. Jyoti Varyani as party defendant in the suit, against which instant writ petition under Article 227 of the Constitution of India has been filed.

2. Learned Senior counsel appearing for the petitioner would submit that subsequent purchaser could not have been impleaded as party defendant in the suit. He relied upon the decision of the Supreme Court in the matter of Vijay Pratap & others v. Sambhu Saran Sinha & others 1996 (X) SCC 53 & J.J. Lal Pvt. Limited & others v. Mr. Murali & another 2002 (3) SCC 98 in support of his submission.

3. Per contra, Shri Ankur Agrawal, learned counsel for defendant No.2 would submit that the defendant No. 2 had purchased the suit property from

respondent No. 1 after three years of the passing of the ex parte decree and even the Supreme Court at the instance of present respondent No. 2 set aside the order of this Court passed in First Appeal No.146 of 2012 in which this Court has held that defendant No. 2 shall return the land in dispute to the petitioner/defendant No.1. He relied upon the judgment of the Supreme Court in the matters of Thomson Press (India) Limited v. Nanak Builders and Investors Private Limited and others (2013) 5 SCC 397 & Kasturi v. Iyyamperumal and others (2005) 6 SCC733 in support of his submissions.

4. I have heard learned counsel appearing for the parties and perused the record with utmost circumspection.

5. After hearing learned counsel appearing for the parties, and in view of the law laid down by the Supreme Court in the matter of Kasturi (supra) & Thomson Press (India) Limited 1 1996 (X) SCC 53 (supra), this Court is of the opinion that the trial Court has exercised its judicial discretion to allow the application for impleadment and the proposed defendant No. 2- Smt. Jyoti Varyani appears to be proper or necessary parties, this Court would not interfere with the exercise of judicial discretion by the trial Court in exercise of power under Article 227 of the Constitution of India.

6. Having heard learned counsel for the parties and having perused the impugned order, this Court does not find any such illegality or perversity committed by the Court below which would warrant exercise of jurisdiction under Article 227 of the Constitution of India.

7. Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed.