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2026:CGHC:10566-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA No. 48 of 2023

1 - Smt. Kanti Bai (Died And Deleted) Deleted As Per Hon'ble Court's Order
Dated 06/05/2024

2 - Smt. Parmeshwari W/o Late Shivkumar Verma Aged About 43 Years R/o-
Near Santoshi Mandir, Katiyapara, Juna Bilaspur, Police Station City Kotwali,
Tahsil And District Bilaspur, Chhattisgarh

3 - Ganesh Verma S/o Late Shivkumar Verma Aged About 29 Years R/o-
Near Santoshi Mandir, Katiyapara, Juna Bilaspur, Police Station City Kotwali,
Tahsil And District Bilaspur, Chhattisgarh

4 - Smt. Preeti Verma W/o Thelaram Verma Aged About 23 Years D/o- Late
Shivkumar Verma, R/o Village Tekar, Police Station- Seepat, Tahsil And
District Bilaspur, Chhattisgarh.

5 - Santosh Verma S/o Late Ramphal Verma Aged About 42 Years R/o Near
Santoshi Mandir, Juna Bilaspur, Police Station City Kotwali, Tahsil And
District- Bilaspur, Chhattisgarh

6 - Ashok Verma S/o Late Ramphal Verma Aged About 40 Years R/o Near
Santoshi Mandir, Juna Bilaspur, Police Station City Kotwali, Tahsil And
District- Bilaspur, Chhattisgarh

7 - Smt. Chitrarekha D/o Late Ramphal Verma Aged About 44 Years R/o Near
Santoshi Mandir, Juna Bilaspur, Police Station City Kotwali, Tahsil And
District- Bilaspur, Chhattisgarh

8 - Smt. Sarita D/o- Late Ramphal Verma Aged About 36 Years W/o- Fekulal Verma, R/o Village Bodri, Police Station Chakarbhatha, Tahsil Bilha (Now Bodri), District Bilaspur, Chhattisgarh **... Appellants**

versus

1 - Smt. Ram Bai W/o Late Ramphal Verma Aged About 61 Years R/o Thakurdev Daihanpara Mopka, Police Station- Sarkanda, Tahsil And District- Bilaspur, **Chhattisgarh**

2 - Rajesh @ Nanka S/o Ramharan Verma Aged About 35 Years R/o Thakurdev Daihanpara Mopka, Police Station- Sarkanda, Tahsil And District- Bilaspur, **Chhattisgarh**

3 - Smt. Sukrita W/o- Rajesh @ Nanka Verma Aged About 34 Years R/o Thakurdev Daihanpara Mopka, Police Station- Sarkanda, Tahsil And District- Bilaspur, **Chhattisgarh**

4 - State Of Chhattisgrh Through- Collector Bilaspur, District Bilaspur, Chhattisgarh **... Respondents**

For Appellants	: Shri Ratnesh Kumar Agrawal, Advocate appears along with Shri Sourav Agrawal, Advocate.
For Respondents 1 to 3	: None.
For Respondent No.4	: Shri Dilman Rati Minj, Dy. Advocate General.

DB: Hon'ble Shri Justice Sanjay S. Agrawal &
Hon'ble Shri Justice Amitendra Kishore Prasad
Judgment on Board

Per Sanjay S. Agrawal, J

28/02/2026

1. This appeal has been preferred by the plaintiffs under Section 96 of the Code of Civil Procedure, 1908, questioning the legality and propriety of

the judgment and decree dated 23.03.2023 passed by the learned First Additional District Judge, Bilaspur (C.G.) in Civil Suit No.62-A/2017, whereby the plaintiffs' claim has been dismissed. The parties shall be referred hereinafter as per their description before the concerned trial Court.

2. Briefly stated the facts of the case are that the plaintiffs instituted a suit claiming declaration of title and also for the declaration to the effect that the registered deed of sale dated 09.05.2016 executed by defendant No.1 - Smt. Rambai in favor of defendant No.2 – Rajesh be declared as null and void and also for possession of the suit land with a further relief of issuance of permanent injunction against the defendants from interference of their peaceful possession. According to the plaintiffs, the land bearing Khasra Nos.1072/1, 1072/3 and 1080 admeasuring 1 acre, 0.07 acre and 1.93 acres respectively, total admeasuring 3 acres situated at Village Mauja Jalso, Tehsil and District Bilaspur was purchased by Ramphal Verma, who was husband of plaintiff No.1 from one Makrand Prasad Verma under the registered deed of sale, dated 16.03.2005 in the name of defendant No.1- Smt. Rambai and, likewise, land bearing Khasra No. 1673/3 admeasuring 1.10 acres was purchased from one Gaukaran, Virendra Verma and Viptu in her name under the registered deed of sale, dated 17.01.2006 and, land bearing Khasra Nos. 1352, 1353 and 1356 admeasuring 1 acre, 0.18 acre and 0.78 acre, respectively from Bodhiram in the name of said Smt. Rambai under the registered deed of sale, dated 17.02.2009 and Khasra No.1362/3 admeasuring 0.63 acre was also purchased by him on the same day in her name from one Jamuna Bai under the registered deed of sale, dated 17.02.2009 and, the land bearing Khasra No.1376/1

admeasuring 1.16 acres of the said Village was purchased from Triveni Bai in the name of Smt. Sukrita Verma, defendant No.3, who is the daughter-in-law of his brother for love and affection under the registered deed of sale dated 27.01.2009. The alleged suit lands described in detail at plaint para 2 were purchased by said Ramphal, while working as a lineman in Chhattisgarh State Electricity Board and that by doing money lending business, who started living separately because of occurrence of some differences with his first wife, i.e., plaintiff No.1 – Kanti Bai and got married with said defendant No.1 – Smt. Rambai by way of *Chudi Pratha*. It is pleaded further that since the alleged suit land was purchased by her said husband, therefore, upon his sad demise on 26.02.2016, they became the absolute owner of it, as such, the registered deed of sale, dated 09.05.2016 executed by defendant No.1- Smt. Rambai in favour of defendant No.2 – Rajesh deserves to be declared as null and void.

3. The aforesaid claim was contested by the defendants, while denying specifically that the alleged suit land was purchased by said Ramphal Verma in the names of defendant No.1 – Smt. Rambai and defendant No.3 – Smt. Sukrita and, contended further that the alleged suit land except the land bearing Khasra No.1376/1 admeasuring 1.16 acres, was purchased by defendant No.1 – Smt. Rambai from her *Istridhan*, while, the land bearing Khasra No.1376/1 admeasuring 1.16 acres was purchased by defendant No.3 through her husband – Rajesh Kumar, therefore, the claim of the plaintiffs deserves to be dismissed.
4. The trial Court, after considering the evidence led by the parties, arrived at a conclusion that the plaintiffs have failed to establish the fact

that the alleged suit lands were purchased by said Ramphal from his own income either in the name of defendant No.1 – Smt. Rambai or in the name of defendant No.3 – Smt. Sukrita and, in consequence, dismissed their claim and, being aggrieved, the instant appeal has been preferred.

5. Learned counsel appearing for the appellants/plaintiffs submits that the finding recorded by the trial Court holding that the alleged suit land was not purchased by said Ramphal from his own income in the name of his wife Smt. Rambai, defendant No.1 and also in the name of Smt. Sukrita, defendant No.3, is apparently contrary to the materials available on record. While inviting attention to the attesting witnesses of the registered deed of sales and also its vendor, submits that since the sale consideration was paid by Ramphal, therefore, the trial Court ought to have come to the conclusion that the alleged property was purchased by him and not by his wife Smt. Rambai or defendant No.3 – Smt. Sukrita and, the findings, therefore, liable to be set aside.
6. Despite service of notice upon respondents No.1, 2 and 3, they failed to appear.
7. The question, which arises for determination in this appeal is as to -

“Whether the land in question described in plaint para 2 was purchased by Ramphal in the name of his wife – Smt. Rambai and also in the name of defendant No.3 – Smt. Sukrita, the daughter-in-law of his brother under different registered deed of sales (Ex.P.-1, P-2, P-3, P-14 and P-4), from his own income?

8. From perusal of the record, it appears that the land in question described in plaint para 2, except the land bearing Khasra No.1376/1 admeasuring 1.16 acres, was purchased in the name of Smt. Rambai, defendant No.1 under the registered deed of sale dated 16.03.2005 (Ex.P.-1), 17.01.2006 (Ex.P.-2), 17.02.2009 (Ex.P.-3) and 17.02.2009 (Ex.P.-14), while the land bearing Khasra No.1376/1 admeasuring 1.16 acres was purchased in the name of defendant No.3 – Smt. Sukrita under the registered deed of sale dated 27.01.2009 (Ex.P.-4). The presumption, thus, arises in their favour that the alleged lands were purchased by them and in order to establish the fact that though, it was recorded as such in their names, but was purchased by said Ramphal from his own income, the burden was, therefore, heavily upon the plaintiffs to establish the said fact in the light of the principles laid down by the Supreme Court in the matter of ***Jaydayal Poddar (Deceased) through L.Rs. And Another vs. Mst. Bibi Hazra and Others*** reported in ***(1974) 1 SCC 3***. The relevant observation made therein at para 6 reads as under:-

“6. It is well settled that the burden of proving that a particular sale is *benami* and the apparent purchaser is not the real owner, always rests on the person asserting it to be so. This burden has to be strictly discharged by adducing legal evidence of a definite character which would either directly prove the fact of *Benami* or establish circumstances unerringly and reasonably raising an inference of that fact. The essence of a *benami* is the intention of the party or parties concerned; and not unoften, such intention is shrouded in a thick veil which cannot be easily pierced through. But such difficulties do not relieve the person asserting the transaction to be *benami* of any part of the serious onus that rests on him; nor justify the acceptance of mere conjectures or surmises, as a substitute for proof. The reason is that a deed is a solemn document prepared and executed after considerable deliberation, and the person

expressly shown as the purchaser or transferee in the deed, starts with the initial presumption in his favour that the apparent state of affairs is the real state of affairs.....”

9. According to the plaintiffs, the alleged suit land was purchased by said Ramphal, while working as a lineman in the Chhattisgarh State Electricity Board and also by involving himself to be a business of money landing. Although, Santosh Kumar Avdhuliya (PW-2), the attesting witness of sale, Ex.P.-4 and Jwala Prasad (PW-5), the attesting witness of sales Ex.P-3 and Ex.P.-14, have deposed in their evidence that the sale consideration was given by said Ramphal, the husband of plaintiff No.1 and, also the said fact was revealed from the statement of Virendra Verma (PW-3), the vendor of sale, Ex.P.-2, but from a bare perusal of the statement of PW-6, namely, Prakash Verma, the attesting witness of sale, Ex.P.-1 it appears, from his cross examination, that the rest of the sale consideration was paid by Smt. Rambai, defendant No.1, at the time of registration of the registered deed of sale. Therefore, it cannot be said that the entire sale consideration, as pleaded by the plaintiffs, was paid by said Ramphal. Pertinently to be noted here further, as revealed from the statement of the brother of said Ramphal, namely, Dilharan Verma (PW-4), who was also a lineman, that he was unable to purchase any land, while working as a lineman. Therefore, in view of such circumstances, and particularly when he (Ramphal) was giving maintenance amount to his wife – Smt. Kanti Bai as per the order of the concerned Court, it cannot be said that he could be able to purchase the land in question, while working as a lineman. That apart, insofar as his involvement in the business of money landing is concerned, no document as such was,

however, placed on record showing that he was involved in the said business. No cogent and reliable evidence has, thus, been led by the plaintiffs that the alleged suit land was purchased by said Ramphal from his own income either in the name of defendant No.1 – Smt. Rambai or in the name of defendant No.3 – Smt. Sukrita and, rather, it appears from the statement of said Smt. Rambai (DW-1) that it was purchased from her *Istridhan* through her husband Ramphal, as her father had given her 10 tola gold and 10 kilo silver at the time of her marriage, while the land bearing Khasra No.1376/1 admeasuring 1.16 acres was purchased by defendant No.3 – Smt. Sukrita through her husband – Rajesh Kumar, as evidenced by his (DW-2) testimony.

10. Even otherwise, in the matter of ***“Binapani Paul vs. Pratima Ghosh and others”*** reported in ***(2007) 6 SCC 100***, the Supreme Court had an occasion to consider the nature of benami transactions and after considering various decisions on this point held that source of money had never been the sole consideration as it is merely one of the relevant considerations, but not the determinative in character. The relevant observation made therein at para 29 read as under:

“29. Source of money had never been the sole consideration. It is merely one of the relevant considerations but not determinative in character.”

11. Recently, in the matter of ***Mangathai Ammal (Died) through Legal Representatives and Others vs. Rajeswari and Others*** reported in ***(2020) 17 SCC 496***, it has been held by the Supreme Court at para 8.1 as under:-

“8.1. While considering a particular transaction as benami, the intention of the person who

contributed the purchase money is determinative of the nature of transaction. The intention of the person, who contributed the purchase money, has to be decided on the basis of the surrounding circumstances; the relationship of the parties; the motives governing their action in bringing about the transaction and their subsequent conduct, etc. It is required to be noted that Narayanasamy Mudaliar, who contributed part sale consideration by purchasing property at Ext. B-3, might have contributed being the husband and therefore by mere contributing the part sale consideration, it cannot be inferred that sale deed in favour of the Defendant 1 wife was benami transaction.....

12. Applying the aforesaid principles to the case in hand, we do not find any substance in this appeal so as to call for any interference in the impugned judgment dismissing the plaintiffs' claim. The appeal is accordingly dismissed.

No order as to costs.

A decree be drawn accordingly.

Sd/-

(Sanjay S. Agrawal)
JUDGE

Sd/-

(Amitendra Kishore Prasad)
JUDGE