



2026:CGHC:13663-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****FA No. 111 of 2024**

Jitendra Goel S/o Shri Ratanlal Goel aged about 49 years, resident of Ratan Villa Silver Spring, Gayatri Nagar, Raipur, Tehsil and District Raipur, Chhattisgarh...(Plaintiff)

... Appellant**versus**

1 - Sewak Ram Pandey S/o Late Shri G.R. Pandey, aged about 65 years resident of C-295, Rohnipuram, Raipur, Tehsil and District Raipur, Chhattisgarh,...(Defendant No. 1)

2 - R.K. Dubey S/o Shri R.S. Dubey, aged about 48 years, resident of House No. 393, Sector 2, Bajaj Colony, Raipur, Tehsil and District Raipur, Chhattisgarh,...(Defendant No. 2)

3 - State of Chhattisgarh Through Collector, Raipur, Chhattisgarh...(Defendant No. 3)

... Respondents

For Petitioner	:	Mr. Amrito Das, Advocate
For Respondent No.1	:	Mr. B.P. Gupta, Advocate
For Respondent No.3 / State	:	Mr. Saumya Rai, Dy. Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, C.J.****23.03.2026**

- 1 Heard Mr. Amrito Das, learned counsel for the petitioner. Also heard Mr. B.P. Gupta, learned counsel, appearing for respondent No.1 as well as Mr. Saumya Rai, learned Deputy Government Advocate, appearing for the State/respondent No.3.



- 2 The appellant has challenged the judgment and decree dated 25.04.2024 (Annexure A/1) passed by the learned Seventh Additional District Judge, Raipur (C.G.) in Civil Suit Class No. A/31/2017, whereby the civil suit instituted by the appellant–plaintiff, *Jitendra Goel*, for declaration of title over the suit scheduled property as well as for declaration of the judgement dated 27.10.2010 and decree dated 30.10.2010 passed by the learned district judge Raipur in Civil Suit No. 21-A/2009 as null and void, as also seeking issuance of a permanent injunction against defendant No. 1 from receiving the compensation amount flowing from the acquisition proceedings for the national highway, has been dismissed and decree has been passed in favour of defendant No.1 / respondent No.1 herein. Being dissatisfied and aggrieved by the findings recorded and the decree so passed, which, according to the appellant, are contrary to the pleadings on record, evidence adduced by the parties and the settled principles of law governing specific performance of contracts, the present appeal has been preferred assailing the legality, propriety and correctness of the impugned judgment and decree with the following prayer :-

“It is, therefore prayed that this Hon'ble Court may kindly be pleased to set aside and quash the impugned judgment and decree dated 25.04.2024 passed by the learned Seventh Additional District Judge, Raipur, Chhattisgarh in Civil Suit Class – A/31/2017 and pass an appropriate judgement and decree granting the relief prayed for in the plaint, in the interest of justice.”



- 3 Brief facts of the case, in a nutshell are that the appellant/plaintiff purchased the land bearing khasra Nos. 383/2, 383/3 and 402 admeasuring 0.182 hec, 0.061 hec. and 0.121 hec., respectively situated at village Mana, Patwari Halka No. 116, Tehsil and District Raipur, Chhattisgarh, from defendant No. 2 vide sale deed dated 16.12.2005 registered on 20.12.2005. Since then the plaintiff was in peaceful possession of the said land as the sole owner of the same. Out of the said land purchased by the plaintiff, some portion was being acquired for the National Highway being khasra No. 402 and 383/2 admeasuring 0.121 Hec and 0.0557 Hec, respectively. When the said acquisition proceeding was being concluded, the plaintiff came to know that the land belonging to the plaintiff was recorded in the name of defendant No. 1 in the revenue record and further that the entire acquisition case was being made and the award for payment of compensation passed erroneously in the name of defendant No. 1. Upon coming to know the said fact, the plaintiff served a legal notice to defendant No.1 as well as to the Sub-Divisional Officer (Revenue,) cum Land Acquisition Officer, Raipur, on 03.05.2017. In response to the said legal notice, defendant No. 1, sent a reply on 23.05.2017 through his counsel informing that the name of defendant No.1 was recorded in the revenue records based on the sale deed executed in his favour by the learned District Judge Raipur in execution of a judgement and degree passed in his favour. Though the defendant No. 1 did not furnish the details of the civil suit or of the judgement and degree passed by the learned District



Judge Raipur, however, the plaintiff upon a detailed enquiry came to know that a civil suit being Civil Suit No. 21-A/2009 for specific performance was preferred by defendant No.1 against defendant No.2 pursuant to an alleged agreement to sell entered as between them on 03.07.2008. Defendant No.2 did submit his written statement denying any such agreement to sell having been entered between the parties in the said civil suit. Defendant No. 2 further stated that the said alleged agreement to sell was a forged and a fabricated document. However, over the period of time defendant No.2 was proceeded ex parte. The said civil suit was allowed ex parte vide judgement dated 27.10.2010 and decree dated 30.10.2010. In execution of the said judgement and decree, the District Judge Raipur executed the sale deed in favour of defendant No.1 on 24.02.2012.

- 4 The plaintiff having come to know of the said facts immediately preferred a civil suit being Civil Suit Class-A/31/2017 for declaration of title over the suit scheduled property as well as for declaration of the judgement dated 27.10.2010 and decree dated 30.10.2010 passed by the learned district judge Raipur in Civil Suit No. 21-A/2009 as null and void, as also seeking issuance of a permanent injunction against defendant No.1 from receiving the compensation amount flowing from the acquisition proceedings for the national highway. Certified copy of the plaint is hereby marked as Annexure A/2. Defendant No.2 submitted his written statement and accepted the fact that the sale deed was executed



in favour of the plaintiff on 16.12. 2005, which was duly registered.

Pursuant to submission of the written statements by defendant No.1 and defendant No.2, the learned trial Court framed the necessary issues and proceeded with trial. Certified copy of the written statement by defendant No.1 is hereby marked as Annexure A/3. The plaintiff placed on record his registered sale deed as well as the certified copies of the plaint and written statement submitted by defendant No.1 and defendant No.2, respectively in the civil suit between them. Certified copies of the exhibits produced by the appellant/plaintiff are hereby cumulatively marked as Annexure A/4. The learned Trial Court on the basis of the material placed on record as well as the depositions of the parties passed the impugned judgment and decree dated 25.04.2024 (Annexure A/1) dismissing the suit preferred by the plaintiff/appellant. Hence, this appeal.

- 5 Mr. Amrito Das, learned counsel for the appellant-plaintiff submitted that the finding recorded the learned trial Court that the execution of the sale deed dated 16.12.2005 in favour of the appellant/plaintiff is proved, but then the plaintiff/appellant has failed to prove his title over the said suit scheduled land because the plaintiff / appellant has failed to produce any revenue record to demonstrate that his name was ever mutated in the revenue record, is wholly erroneous because once the execution of the sale deed stands proved, the title in the land stands duly conveyed to the plaintiff/appellant. The title does not flow from the



revenue record. He further submitted that despite clear evidence having been placed on record to show that defendant No.1 and 2 acted collusively, the trial court held that the appellant/plaintiff failed to show that there was any collusion between them. He also submitted that the learned trial Court utterly failed to consider that once the challenge was made to the judgement and decree passed by the learned District Judge Raipur in Civil Suit No. 21-A/2009, it cannot be said that the said judgement and decree has attained finality because the appellant/plaintiff did not challenge the same in appeal. Filing of an appeal or preferring a civil suit for declaration of the said judgment and decree as null and void is an option available with the plaintiff / appellant, and therefore it is highly erroneous to hold that the appellant /plaintiff had to file an appeal against the said judgement and decree passed in Civil Suit No. 21-A/2009.

- 6 Mr. Das further submitted that the learned trial Court has committed serious error in not considering the fact that the suit as preferred by the appellant/plaintiff was to seek a declaration that the judgement and decree passed in Civil Suit No. 21-A/2009 was null and void as the same was obtained by playing fraud on the learned Court. Despite defendant No. 2 having executed the sale deed in favour of the plaintiff /appellant on 16.12.2005 have not disclosed the said fact before the learned District Judge Raipur in the civil suit as between him and defendant No.1. The only reason for the said non-disclosure coupled with the fact that defendant



No.2 later became ex parte is the fact that they both acted in collusion. The said judgement and decree Civil Suit No. 21-A/2009 was therefore vitiated on account of fraud. In support of his contention, he placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of ***Ram Prakash Agarwal and Another Vs. Gopi Krishan (dead through Lrs.) and Others***, reported in ***(2013) 11 SCC 296***. He lastly contended that the learned trial Court committed a serious jurisdictional error in rejecting the said civil suit preferred by the appellant as not maintainable, as such, the judgement and decree dated 25.04.2024 passed by the learned Seventh Additional District Judge Raipur, Chhattisgarh, in Civil Suit Class A/31/2017 is wholly misconceived and is liable to be set aside.

- 7 Per contra, Mr. B.P. Gupta, learned counsel appearing for Respondent No.1 vehemently opposed the aforesaid submissions and supported the impugned judgment and decree passed by the learned Trial Court. It is submitted that the learned Trial Court has rightly appreciated the evidence on record and has correctly held that the appellant/plaintiff failed to establish his lawful title over the suit property. Merely proving the execution of a sale deed does not *ipso facto* establish complete and lawful title, particularly when the appellant failed to demonstrate mutation of his name in the revenue records and failed to prove actual and continuous possession in accordance with law. It is further submitted that Respondent No.1 derived valid title pursuant to a decree passed



in Civil Suit No. 21-A/2009 by the competent Court, followed by execution of a registered sale deed in his favour through due process of law. The said judgment and decree have attained finality and remain binding, as the same were never challenged in appeal before the appropriate forum. The appellant, being aware of the said decree, cannot be permitted to bypass the statutory remedy of appeal and instead seek declaration through a separate suit, which is not maintainable in law.

- 8 Mr. Gupta also submitted that the allegations of fraud and collusion are bald, vague and unsupported by cogent evidence. The learned Trial Court has rightly recorded a finding that no material was brought on record to substantiate the plea of collusion between Defendant Nos.1 and 2. Mere non-disclosure of certain facts, in absence of strict proof of fraud, cannot render a judicial decree null and void. He contended that reliance placed by the appellant on the judgment reported in ***Ram Prakash Agarwal*** (supra) is misplaced and distinguishable on facts. He further contended that the appellant has failed to establish any illegality or perversity in the findings recorded by the learned Trial Court warranting interference by this Hon'ble Court.
- 9 We have heard learned counsel for the parties at length and have carefully perused the pleadings, evidence and the entire record of the case, including the impugned judgment and decree.
- 10 Upon consideration of the pleadings, evidence on record, and the rival submissions advanced by learned counsel for the parties,



this Court finds that although the appellant has proved the execution of the registered sale deed dated 16.12.2005 in his favour, he has failed to establish a clear and legally enforceable title over the suit property. The absence of mutation in the revenue records, coupled with lack of cogent evidence demonstrating continuous and lawful possession, creates a significant doubt regarding the completeness of his title. The learned Trial Court has, therefore, rightly held that mere execution of a sale deed, in the facts of the present case, was insufficient to conclusively establish ownership, particularly when competing claims supported by a court decree exist.

- 11 So far as the challenge to the judgment and decree passed in Civil Suit No. 21-A/2009 is concerned, this Court finds no merit in the appellant's contention that the same is vitiated by fraud. The reliance placed on the judgment of the Hon'ble Supreme Court in ***Ram Prakash Agarwal*** (*supra*), is misplaced in the facts of the present case. While the said judgment undoubtedly lays down that fraud vitiates all judicial acts, it equally emphasizes that fraud must be specifically pleaded and strictly proved by cogent evidence. In the present case, apart from bald and unsubstantiated allegations of collusion and non-disclosure, the appellant has failed to place any material on record to demonstrate deliberate deception or suppression of material facts so as to vitiate the earlier decree. Mere non-disclosure of the prior sale deed by defendant No. 2, in absence of proof of intentional



deceit or conspiracy, does not meet the threshold of fraud as contemplated in law.

- 12 Further, it is evident that the judgment and decree passed in Civil Suit No. 21-A/2009 have attained finality, as the same were never challenged by the appellant before the appropriate appellate forum. The appellant cannot be permitted to circumvent the statutory remedy of appeal by instituting a separate suit for declaration, particularly in the absence of proof of fraud of such magnitude as would render the decree a nullity. The learned Trial Court has rightly appreciated this legal position and held the suit to be not maintainable. No perversity, illegality, or jurisdictional error is found in the findings so recorded, warranting interference by this Court in the present appeal.
- 13 In light of the above findings, this Court holds that the appellant has failed to substantiate his claims and that the learned Trial Court's decision to dismiss the suit was correct.
- 14 Accordingly, the appeal is hereby **dismissed**. The impugned judgment and decree dated 25.04.2024 passed by the learned Seventh Additional District Judge, Raipur, in Civil Suit Class A/31/2017 is upheld.
- 15 Decree be drawn up accordingly.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice