

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

FA No.143 of 2017

Ghasiram Sharma Dead Through Lrs **Versus** Mukesh Kumar Agrawal

05/03/2018	Shri Anand Shukla, counsel for the appellant/s. Shri A. S. Rajput, counsel for respondent No.1. None for respondents No.2(a) to 2(c). Shri S. Majid Ali, Dy.GA for State. Heard. Taking into consideration the submission that Sahodra Bai, one of the defendants died even before the judgment and while filing an appeal, though the appellants have been permitted to file an appeal against the legal heirs of the deceased-Sahodra Bai, no further orders are required to be passed on I.A.No.2, an application under Order 22 Rule 4 CPC. Accordingly, the application (I.A.No.2) is finally disposed off. Also heard on application under Order 41 Rule 5 CPC for grant of stay. Learned counsel for the appellant would argue that even if the plaintiff was entitled to refund of the amount, which was paid by him in advance under the agreement of sale, learned trial Court completely exceeded its jurisdiction in awarding the amount in excess of the sum by assuming the compensation payable to the original landlord by the State authorities in the matter of acquisition of the subject land under the Land Acquisition Laws. On the other hand, learned counsel for the respondents argued that the plaintiff had entered into an agreement with the appellants/defendants and he had paid Rs.2,01,000/- on the basis of the then prevailing rates of land. Learned trial Court, after scrutiny of evidence, recorded a finding that compensation on the subject land is assessed by the Land Acquisition Officer to Rs.3,50,000/-, which was rightly granted.

Taking into consideration the submission of learned counsel for the appellant, while directing refund of the advance money paid by the plaintiff, learned trial Court has assumed valuation of Rs.3,50,000/- as compensation, it is directed that subject to the appellant's furnishing security of Rs.1,50,000/-, the execution of the impugned judgment and decree in excess of Rs.2,01,000/- along with interest shall remain stayed till the next date of hearing. The security shall be furnished within a period of 30 days.

List this matter for final hearing along with F.A.No.60 of 2017.

SD/-
(Manindra Mohan Shrivastava)
Judge