

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 332 of 2004

Shri Bajru S/o Moti Bhuihar (Adhivasi) aged about 52 years.

Occupation – Agriculture R/O Village – Piprol, Tehsil – Pal, Distt. - Sarguja
M.P. (Now CG)

---- Appellant

Versus

1. Smt.Manjri Devi W/o Shri Hemant Bhuihar, aged about 70 years
(dead)

Through his legal heirs

1.1. Lukua Son of Late Shri Hemant aged about 60 years, village –
Mahavir Ganj, Tehsil Pal, Distt.-Sarguja, Chhattisgarh.

1.2. Mullar Son of Late Shri Hemant, aged about 55 years, village –
Beditola, Maharganj, Tehsil – Balrampur, Distt.-Sarguja, Chhattisgarh

1.3 Dhunai Son of Late Shri Hemant, aged about 50 years, Village –
Jhardih, Tehsil – Balrampur, Pal, Distt. - Sarguja, Chhattisgarh.

2 Smt. Bironi Sevi wife of Shri Ramanath Bhuihar, age about 65
years

3. Smt. Hukal, daughter of – Sukhat Bhuiwar, aged about 62 years

4. Shri Bhudram son of Karam Dayal, aged about 48 years,

From serial no.2 to 4 are residents of village Piprol, occupation –
agriculturist, tehsil – Pal, Distt. - Sarguja (CG)

5. State of Madhya Pradesh, (now CG) through the Collector, Sarguja,
Ambikapur.

---- Respondents

Shri A.K.Prasad, counsel for the appellant/s.
Ms. M.Asha, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/11/2015

Heard on admission.

This appeal is directed against impugned judgment and decree dated 24/03/04 passed in Civil Appeal by the Additional Sessions Judge by which, the learned lower Appellate Court has reversed the decree passed in favour of appellant and dismissed the suit.

2. Learned counsel for the appellant argued that the lower Appellate Court committed gross illegality and perversity in recording a finding that the appellant has failed to prove that he was the son of Moti Bhuihar even though the appellant examined himself as PW1 and three other witnesses to lead cogent and clinching oral evidence that he was the son of Moti Bhuihar. The Court below committed perversity in not appreciating that the name of the appellant was also recorded in the revenue records duly proved as Ex.P/1. He submits that the Court below has proceeded to dismiss the suit and the claim on the basis of statement made in the cross examination which does not amount to admission of appellant's parentage of Chamru Bhuihar and Jubbi Bhuihar. He also submits that the Court below further committed gross illegality in holding that defendants 1 and 2 – Manjri Devi and Bisarni are daughters of late Moti Bhuihar, in the absence of there being any legally admissible evidence in that regard.

3. In order to record the finding of fact with regard to appellant's parentage, the learned lower Appellate Court has appreciated the oral evidence led by the plaintiff as Bajru (PW1), Rambhagat (PW2), Lodhi (PW3) and Bachan (PW4). The learned lower Appellate Court has appreciated the statement made by the plaintiff Bajru (PW1) that he was born out of relation of Chamru Bhuihar with Jubbi Bhuihar. This candid admission of the appellant has been taken into consideration by the learned lower Appellate Court to disbelieve their oral evidence with regard to his parentage. The learned lower Appellate Court has taken into consideration appellant's own statement made in the cross examination regarding his parentage. This essentially is a matter of appreciation of evidence and the finding is a pure finding of fact.

Much insistence has been laid on the entries made in the revenue records. It is well settled that the entries in the revenue records cannot be made a basis for establishing title. The issue of parentage has been decided on the basis of appellant's own statement.

Once it is found that the finding with regard to appellant's parentage and the conclusion that the appellant was not the son of late Moti Bhuihar is arrived at the instance of the appellant, I am not inclined to examine other findings of the lower Appellate Court. No question of law is thus, involved in this appeal.

4. The appeal has no merit and is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge