

IN THE HIGH COURT OF JUDICATURE AT BILASPUR [C.G.]

SECOND APPEAL No. 89 / 2005

APPELLANTS

PLAINTIFFS

1. Manik Das S/o Late Girvar Das Aged-

about 62

2. Aarati Das S/o Araji Das Aged- about 47

years

3. Bachan Bai D/o Araji Das Aged- about 35

Years

4. Dhaneshwar Bai D/o Araji Das Aged -

about 30 years

5. Suraj Bai W/o Araji Das Aged -about 55

years

6. Laxmin Bai D/o Araji Das Aged -about 57

years

7. Jagdas S/o Araji Das Aged -about 32 years

8. Basant Das S/o Araji Das Aged -about 33

years

(From 2 to 6 by their Mukhtiyar Basant Das)

All the plaintiffs from 1 to 8 are by caste-Panika
R/O - Village- Dhava, Tahsil - Pali & Distt-

Korba [C.G.].

VERSUS

1. Kapil Das S/o Girvar Das, Aged about 70
Years R/o- Village- Dhava, Tahsil - Pali &

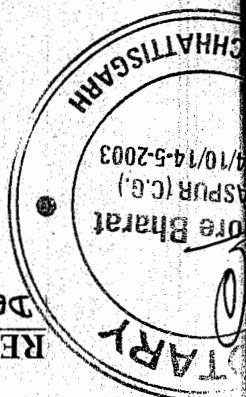
Distt- Korba [C.G.]

2. State Of Chhattisgarh

Through- Collector, Korba (C.G.)

RESPONDENTS :

DEFENDANTS



RECEIVED-COPY
15.2.05
CLE K to A. C. BLASPUR

P.R. No. 446/05
Presented by Sri. Sanjay Patel
dated 15.02.05

1

Chandel

2

3. Sub Divisional Officer (Revenue), Land Acquisition Officer, Distt. Korba (C.G.)
4. Branch Manager, The State Bank Of India, Katghora, Distt. - Korba (C.G.)
5. Sub Divisional Officer, Irrigation Department (Jal Sansadhan Vibhag) Pali, Distt. - Korba (C.G.)
6. Bilaspur- Raipur Kshetriya Gramin Bank Pali, Tahsil- Katghora, Distt. - Korba (C.G.)

SECOND APPEAL UNDER SECTION 100 THE CIVIL

PROCEDURE CODE



39

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 89 of 2005

Manik Das and others

---- Appellants/Plaintiffs

Versus

Kapil Das and others

---- Respondents/Defendants

For Appellants/Plaintiffs : Shri Sanjay Patel, Advocate.
For State : Shri Ramakant Pandey, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/12/2015

Heard on admission.

1. This appeal is directed against impugned judgment and decree dated 23.12.2004 passed in Civil Appeal No.32-A of 2004 by which, the learned Lower Appellate Court has dismissed the appeal affirming the judgment and decree of the Trial Court.

2. Learned counsel for the appellants argued that the Courts below have committed gross illegality and perversity in holding that the appellants failed to prove that they are entitled to reimbursement of that part of compensation in respect of the land held in their possession and acquired from defendant Kapildas. Learned counsel for the appellants argued that the land acquired was a big parcel of land which was jointly held by the appellants and his brother Kapildas. There is overwhelming evidence on record to prove that the

entire land was acquired and the compensation was paid to Kapildas. Kapildas admitted that the part of land of the appellants has also been acquired. Thus, the appellants were entitled to receive their respective share of compensation from respondent Kapildas who received entire amount of compensation from the State under award in the acquisition proceedings.

3. Both the Courts below have recorded concurrent finding of fact that the appellants/plaintiffs failed to prove that in respect of the land possessed by him, compensation was paid by State authorities to respondent/defendant Kapildas alone. The Courts below have found that the appellants/plaintiffs have failed to prove that the land which was possessed by him was acquired and compensation in respect of that part of the land which was in his possession was actually paid to Kapildas.

On the basis of admission of the appellants/plaintiffs, the Courts below have held that the plaintiffs and defendants were in separate cultivating possession of their respective share. On the basis of plaintiffs' own admission and their own evidence, the Courts below have also recorded that the property was not ancestral property.

In the absence of there being any proof that in respect of the land possessed by the appellants, compensation was paid to Kapildas, the Courts below have rightly held that the appellants are not entitled to any decree.

4. No substantial question of law arises for consideration in the appeal and the appeal is, therefore, dismissed.

Sd/-
Manindra Mohan Shrivastava
Judge