

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 142 of 2003**

Nathu Ram, adopted S/o Dadul aged 35 years, Occupation Agriculturist, R/o Village Makanpur, P.S. and Tehsil Pratappur, Distt. Surguja,

---- **Petitioner**

Versus

1. Bigani D/o Dadul aged about 55 years
2. Girish S/o Ram Charitra aged about 30 years
Both R/o village Makanpur, P.S. and Tehsil Pratappur, Distt. Surguja (CG)
3. State of Chhattisgarh through Collector, Surguja Ambikapur, Distt. Surguja (CG)

---- **Respondents**

For Appellant	:	Shri Sushil Dubey, Advocate
For Respondent/State	:	Ms. Puspa Dwivedi, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

05/08/2015

The present appeal has been preferred by the appellant against the judgment and decree dated 20.11.2002 passed by the Sixth Additional District Judge (FTC), Surajpur in Civil Appeal No. 5A/02. By way of the impugned judgment, the first appellate Court has affirmed the judgment and decree dated 29.09.2001 passed by the Civil Judge Class II, Surajpur in Civil Suit No. 15A/93.

2. Facts leading to the instant second appeal are that the appellant/plaintiff had filed a suit before the trial Court seeking for declaration of title against the respondents 1 & 2 in respect of the suit property bearing khasra No.214, 392/832, 212, 213, 379/833, 379/834, 370/835. According

to the plaintiff, he was the adopted son of late Dadul and after death of Dadul, he should have inherited the rights over the said suit property which has been denied by the respondent/defendant No.1 and in turn she had sold the property to respondent No.2 in the year 1990.

3. The trial Court while considering the suit had framed a specific issue as to whether the plaintiff was the adopted son of late Dadul and whether the plaintiff was the sole legal heir of late Dadul or not.

4. After pleadings were complete and the evidences were recorded wherein defendant No.1 had proceeded ex-party, the trial Court considered the evidences which have come on record and reached to the conclusion that the plaintiff has not been able to establish of being an adopted son. The finding of the trial Court is that the plaintiff has not been able to prove the adoption nor has he been able to state as to who is his biological father who had given the plaintiff to be adopted by late Dadul so as to complete the adoption proceedings. On the basis of which the trial Court rejected the suit vide its judgment dated 29.09.2001.

5. The said judgment dated 29.09.2001 was put to challenge in a first appeal registered as Civil Appeal No. 5A of 2002 in the Court of Sixth Additional District Judge (FTC), Surajpur. The first appellate Court also after considering the entire facts and circumstances of the case and on the basis of the similar finding which the trial Court had given, has reached to the conclusion that in the absence of any proof on

the part of the plaintiff to establish the adoption and to prove the fact that the plaintiff was the adopted son of late Dadul, rejected the first appeal vide impugned order dated 20.11.2002.

6. It is this judgment dated 20.11.2002 which is under challenge in the instant second appeal.

7. On due consideration of the contentions and submissions made by the counsel for the appellant/plaintiff and on perusal of the findings arrived at by the two Courts below it is evidently clear that the plaintiff has not been able to establish any cogent ground to prove his contention of being the adopted son of late Dadul so as to inherit the suit property. Further, counsel for the appellant has not been able to point out any substantial question of law in the instant second appeal by which the appeal be admitted for hearing. Unless there is a substantial question of law, the scope of interference in a second appeal is very limited. All the contentions put forth by the counsel for the appellant are pure finding of fact on which there is a concurrent finding given by the two Courts below.

8. Thus, the second appeal being devoid of merit is liable to be and is accordingly dismissed. No order as to cost.

Sd/-

(P. Sam Koshy)
JUDGE