

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 171 of 2007

Sushri Urmila Devi D/o Late Ramlal Yadav, aged 57 years, Balaji Ward (Kewramunda Ward), Bastar, Jagdalpur, Tahsil-Jagdalpur, District-Bastar,

---- Appellant

Versus

1. Rajesh Kumar Jain S/o Shanti Kumar Jain, aged about 30 years, R/o. Nayapara Ward, Jagdalpur
2. Shekh Salim Raja S/o Shekh Rahmood, Aged 45 years R/o Indira Ward, Jagdalpur, District-Bastar (CG)
3. Baldev Krishna Sharma S/o Ishwardas Sharma, Aged 73 years, R/o. Pratapganj Ward, Jagdalpur (CG)
4. Monu Sharma S/o Kaushal Sharma, aged 25 years, R/o. Rajendra Nagar Colony, Raipur, Tahsil-Raipur, District-Raipur,
5. Suman Sharma S/o Late Somdatt Sharma, Pratapganj Para, Jagdalpur, Tahsil-Jagdalpur, District-Bastar
6. Smt. Shashi Kala W/o Virendra Sharma, Rajendra Nagar Colony, Katora Talab, Raipur, Tahsil-Raipur, District-Raipur,
7. Nasir Khan S/o Late Navab Khan, aged 40 years R/o. Frejerpur, Jagdalpur, Tahsil-Jagdalpur, District-Bastar,

---- Respondents

Shri H.B.Agrawal, senior counsel along with Ms. Meera Jaiswal, counsel for the appellant/s.
Shri Mayank Chandrakar, counsel for respondent No.1.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/11/2015

Heard on admission.

This appeal is directed against impugned judgment passed by the Appellate Court on 14/02/07 by which, the learned lower appellate has reversed the judgment decree of the Trial Court and dismissed the suit.

2. Learned counsel for the appellant argued that the suit filed by the plaintiff was rightly decreed by the Trial Court clearly recording finding of her possession over the disputed property since the time two sale deeds were executed in favour of defendants. He argued that earlier the defendants Baldeo Krishna Sharma and his brother Somdatt Sharma filed suits for possession but both the suits were dismissed for want of prosecution. This clearly is an admission of the defendant that they were never in possession of the property in dispute on the basis of so called registered sale deeds executed in their favour by Ramlal Yadav, father of plaintiff Urmila. He argues that the learned lower Appellate Court committed gross perversity in reversing the decree and dismissing the suit by holding that the plaintiff has failed to prove prescription of title over the disputed land.

3. Learned lower Appellate Court, after appreciating oral and documentary evidence on record, has recorded that the plaintiff has failed to prove by leading clinching evidence to show that she was in continuous and uninterrupted possession of the land in dispute after execution of sale deed by her father in favour of Somdatt Sharma and Baldeo Krishna Sharma. The notice of municipal records has been disbelieved by the learned lower Appellate Court in view of revenue records recording possession of the plaintiff.

4. In my considered opinion, appreciation of evidence by the learned lower Appellate Court and conclusion that the plaintiff has failed to prove his continuous hostile possession over the disputed property so as to perfect her title is essentially in the realm of finding of fact and no substantial question of law arises in that regard. Therefore, the appeal has no merit and is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge