

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SECOND APPEAL No. 197 of 2015

Panch Ram Thethwar, S/o Late Sukhdev Thethwar, aged about 30 years, R/o Village – Latuwa, P.H.N. No.06, Tahsil – Baloda Bazar, District : Baloda Bazar – Bhatapara (C.G.)

... Appellant

Versus

1. Goverdhan Satnami, S/o Shanker Satnami, aged about 65 years, R/o Village Latuwa, P.H.N. No.06, Tahsil – Baloda Bazar, District : Baloda Bazar – Bhatapara (C.G.)

2. State of Chhattisgarh, through Collector, Baloda Bazar, District : Baloda Bazar – Bhatapara (C.G.)

... Respondents

For Appellant	:	Mr. Deepak Jain, Advocate.
For Respondent 2 - State	:	Mr. Roshan Dubey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Judgement on Board

07/08/2015

1. The present is Plaintiff's Second Appeal.
2. By way of the present Second Appeal, the Appellant-Plaintiff has challenged the judgement and decree dated 14.1.2015 passed by the First Additional District Judge, Baloda Bazar, in Civil Appeal No. 13A/2012, whereby the judgement and decree dated 19.1.2012 passed by the Civil Judge, Class-I, Baloda Bazar, in Civil Suit No. 20A/2010 has been affirmed.
3. The Appellant-Plaintiff had filed a civil suit for declaration of title as well as permanent injunction against the Respondents-Defendants claiming title over the suit property by virtue of sale made between the father of the Plaintiff and the earlier owner of the suit property vide sale deed dated 17.1.1959. According to the Plaintiff, though the father of

the Plaintiff had purchased the suit property in the year 1959 but his father did not get the property mutated in his name and at the same time they were enjoying the possession over the suit property all along. Subsequently, when his father, Late Sukhdev Thethwar, had died in the year 2003 the Plaintiff had gone to the revenue office for getting the mutation done in his name and it is then that the Plaintiff came to know that the property was not mutated in the name of his father, which led to filing of the civil suit.

4. The Trial Court after taking into consideration the evidence and the documentary proofs which were adduced by the Plaintiff, vide judgement and decree dated 19.1.2012 held that the Plaintiff has not been able to prove his title over the suit property by either proving the sale deed, Exhibit P-1, dated 17.1.1959. The Trial Court found that the Plaintiff has not been able to adduce any evidence of any of the person who was either witness to the said sale deed, or had brought any evidence from the office of the Registrar to prove the registration of the sale deed and thus in the absence of any cogent proof, the sale deed could not be accepted as a valid document for establishing the title of the Plaintiff over the suit property.

5. The Trial Court further gave a finding that from the evidence of the Defendants it has clearly come that Defendant No.1 was in possession of the suit property for much over 50 years and that Defendant No.1 was enjoying the title and possession of the suit property by way of inheritance which he has received from his father, Shanker Satnami, and that the suit property was the ancestral property of Defendant No.1. Thus, the Trial Court dismissed the suit vide its judgement and decree dated 19.1.2012.

6. The said judgement and decree dated 19.1.2012 of the Trial Court was put to challenge by way of a first Appeal, which was registered as Civil Appeal No. 13A/2012. The first appellate Court also after taking into consideration the entire facts and circumstances of the case, particularly, re-appreciating the entire evidence which has been led by either side, and also taking into consideration the provisions of the Land Revenue Code, affirming the judgement and decree dated 19.1.2012 of the Trial Court dismissed the first Appeal vide its judgement and decree dated 14.1.2015, leading to filing of the present Second Appeal.

7. In the instant Second Appeal, during the course of arguments, learned Counsel for the Appellant-Plaintiff submitted that the Court below has not properly appreciated the fact that the Plaintiff has been able to establish his title over the suit property by way of producing the registered sale deed before the Courts below, which was marked as Exhibit P-1, and which the Courts below ought to have accepted as a valid document and proof to establish his title, and having not done so the Courts below have committed an error of law.

8. Apart from the said, the Appellant-Plaintiff has not been able to raise any other ground calling for interference in the finding of the Courts below. The said contention in respect of registered sale deed, Exhibit P-1, is a matter of fact which has been duly considered and appreciated by the two Courts below and have given a concurrent finding that the Plaintiff has failed to establish his case by leading proper evidence to prove the sale deed and establish the title and possession over the suit property.

9. On perusal of the contents of the judgements passed by the two Courts below and on hearing the contentions raised by the Counsel for the Appellant, it is established that the submissions raised by the Appellant have all been duly considered by the Trial Court as well as the first appellate Court and specific reasons have been given on these submissions while rejecting the contentions of the Appellant-Plaintiff. Further, the submissions and contentions raised by the Appellant-Plaintiff are also finding of facts and which cannot be interfered at the second appellate stage and since there is no substantial question of law raised in the instant Second Appeal, the finding arrived at by the two Courts below being finding of facts and there being concurrent finding of facts, the instant Second Appeal being devoid of merits is liable to be rejected.

10. Accordingly, the Second Appeal is dismissed in *limine* being devoid of merits. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge