

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 244 of 2015**

Chaindas Patela S/o Khorbaharram Patela Aged About 60 Years Attorney Praveen Das Patella , Village : Tekari Phunda Tahsil Tilda District- Raipur, Chhattisgarh

---- Appellant

Versus

1. Bisaldas S/o Bisru Satnami Aged About 60 Years R/o Village : Budghan Post Kharora District- Raipur, Chhattisgarh
2. State Of Chhattisgarh Through : Collector, Raipur Present District- Balodabazar, Chhattisgarh

---- Respondents

For Appellant	:	Shri Ajay Mishra, Advocate
For respondent No.1	:	Shri B.P. Rao, Advocate
For Respondent No.2/State	:	Shri Neeraj Sharma, Dy. Govt. Advocate

S.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****10/12/2015**

Heard on admission.

1. This appeal is directed against the impugned judgment and decree dated 7th September, 2014 passed by learned lower appellate Court by which appellant's appeal against judgment and decree passed by the trial Court has been dismissed.
2. Learned counsel for the appellant argues that the appellant led cogent and clinching oral evidence of Praveen Patela (P.W.1), Smt. Sahodra Bai (P.W.2) and Jethu Ram (P.W.3) to prove that Suhaga Bai was the daughter of Aadhar and that Aadhar had a son Rangu and a daughter- Suhaga. However, the learned Courts below have recorded adverse concurrent finding ignoring the aforesaid evidence holding that the

plaintiff has failed to prove that Suhaga was the daughter of Adhar and sister of Rangu.

3. Both the Courts below have recorded finding of fact on this aspect of the matter. The evidence of plaintiff, upon due appreciation, has been disbelieved by taking into consideration the document (Ex.P-1) dated 18.3.1923 filed by the plaintiff himself, which records birth of one male issue of Aadhar. The finding on this aspect recorded by both the Courts are concurrent finding of fact.
4. Learned counsel for the appellant submits that he has filed some new document on record which included an order passed by the Tahsildar on 2.6.2007 and birth certificates dated 2.2.1926 and 30th June, 1926 by submitting that these are relevant, therefore, they may be admitted in evidence at the second appellate stage.
5. There is no application under Order 41 Rule 27 filed by the appellant. However, the documents have been annexed as annexure along with memo of appeal without there being any reason seeking indulgence of the Court in terms of provision contained under Order 41 Rule 27 CPC for taking those additional evidence on record at the second appellate stage.
6. Therefore, the appellant cannot be allowed at this second appellate stage to bring new documents without any justification as to why these documents could not be produced earlier as also for the reason that memo dated 2.6.2007 (Annexure A-3) is a subsequent document.
7. The appeal is therefore dismissed.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge