

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 34 of 2012

Gokul Late Trilochan Mahar Aged About 64 Years R/o Village Khapari, P.O. Barbaspur, Patwari Halka No. 38, Rajaswa Nirikshan Mandal & Tah Gunderdehi, Ditt. Durg C.G.

---- Appellant

Versus

1. A. Yadavram Gongeshwar S/o Romnath Aged About 49 Years R/o Vidhan Sabha Karyalaya, Raipur (C.G.)

B. Domanlal Gangeshwar S/o Romnath, Sahayak Vikas Vistar Adhikari, R/o Bagbahara, Distt. Mahasamund C.G.

C. Smt. Aarati W/o Amarchand Raipuriya, R/o Amar Sadan, Near Ganga Bhawan, Shikaripara Balod, Tah Balod Dist. Balod C.G.
2. Bhokaluram Chand Dev S/o Punuram, Caste-Mahar, R/o Village Mowa, P.O. Rajauli, Tah. Gunderdehi, Distt. Durg C.G.
3. Bhagwat S/o Shri Jainu Mahar, Kotwar, R/o Village Khuteri, Post Off. Not Mentioned, Tah Gunderdehi Distt. Durg C.G.
4. Government Of C.G. C.G. Through The Collector, Durg, Distt. Durg. C.G.

---- Respondents

Shri Samsun Samuel Masih, counsel for the appellant/s.
Shri Ramakant Pandey, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/01/2016

Heard on admission.

This appeal is directed against impugned judgment and decree passed by the learned lower Appellate Court by which the learned lower Appellate Court has dismissed the appeal affirming the judgment and decree passed by the Trial Court.

2. Learned counsel for the appellant submits that both the Courts below committed gross illegality and perversity in recording concurrent finding of fact

that by virtue of registered sale deed showing Tilochan and Dukharin Bai as joint purchaser, Dukharin and thereafter, her sons were entitled to share in the property in dispute. He submits that admission on the part of the defendants that sons of Chirag Singh namely Milap, Milan and Tilochan had partitioned joint family property amongst themselves and thereafter, land in dispute purchased by Tilochan though along with Dukharin Bai, proves that the disputed property was actually purchased by Tilochan only out of sale of his share in Village – Paila which he got under partition amongst his brothers. It is submitted that mere recording of name of Dukharin Bai in the sale deed by which the property in dispute was jointly purchased by Dukharin Bai and Tilochan, in view of oral evidence was liable to be rejected holding that infact, the title was intended to be passed only in favour of Tilochan and not in favour of Dukharin Bai.

3. Both the Courts below, upon minute scrutiny of oral and documentary evidence, recorded concurrent finding that the property in dispute was jointly purchased by Dukharin Bai and Tilochan relying upon evidence of plaintiff himself. Therefore, irrespective of earlier partition amongst members of family, the admitted position regarding joint purchase of land in dispute by Tilochan and Dukharin has been believed by the Courts below that successors were entitled to equal share along with successors of Tilochan over the disputed property.

4. The finding of the Courts below are concurrent finding of fact and based on plaintiff's own admission that the disputed property was jointly purchased by registered sale deed by Tilochan and Dukharin. Therefore, no substantial question of law arises for consideration.

The appeal is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge