

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 19 of 2016

Dheerajpuri Goswami S/o Vasudevपुरी, Aged About 33 Years R/o Village Devrikhurd Near Naya Water Tank, Bilaspur, District Bilaspur, Chhattisgarh(Defendant No.2)

---- Appellant

Versus

1. Dhaniram S/o Late Baliram Sahu, Aged About 60 Years R/o Village Pithampur, Tahsil Janjgir, District Janjgir-Champa, Chhattisgarh(Plaintiff)
2. Santosh Kumar S/o Radhelal Kashyap, Aged About 51 Years R/o Village Kachanda (Salkhan), Tahsil Nawagarh, District Janjgir-Champa, Chhattisgarh(Defendant No.1)
3. State Of Chhattisgarh, Through The Collector, Janjgir, District Janjgir-Champa, Chhattisgarh(Defendant No.3)

---- Respondents

Shri P.K.Patel, counsel for the appellant/s.
Shri P.M.Shriwas, counsel for respondent No.1.
Shri Chandresh Shrivastava, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order

09/03/2016

Heard on admission.

This appeal is directed against impugned judgment and decree dated 08/12/15 passed by 1st Additional District Judge, Janjgir in Civil Suit No.20-A/2014 by which, the suit has been decreed.

2. Learned counsel for the appellant / defendant argued that the Court below has committed gross illegality in recording perverse finding of fact and holding that the appellant / defendant did not acquire any title by virtue of sale deed dated 18/11/10. He submits that the appellant had purchased the land in dispute from

Rahas Bai, who was in valid possession with title of the property in dispute on the date of sale and purchase. The sale deed validly transferred in favour of the appellant. The Trial Court wrongly relied upon the judgment in Civil Suit No.90-A/05 decided on 25/02/10 in which, the appellant was not a party and therefore, not bound by the said judgment and decree. It is further argued that the Court below ought to have decided the issue arising in the present suit on the basis of its own evidence rather than judgment and decree passed in some other case.

3. The respondent / plaintiff sought declaration and permanent injunction on the pleadings inter alia that the sale deed dated 18/11/10 executed by his step mother Rahas Bai in favour of defendants 1 and 2 is *void ab initio* because Rahas Bai has no title or interest in the property, therefore, execution of sale deed is of no consequence and did not transfer any title or interest in favour of the appellant.

4. From the judgment of the learned Trial Court, it is clear that in respect of certain properties which included the property in dispute in the present case, earlier, suit was filed by Dhaniram / plaintiff of the present case against Rahas Bai seeking declaration of title. In that suit, decree was passed on 25/02/2010 holding that Dhaniram was the sole owner of the disputed property and title of plaintiff - Dhaniram was declared in respect of the entire property including the property in dispute in the present suit also. The decree was passed prior to execution of sale deed dated 18/11/2010 by Rahas Bai in favour of appellant / defendant. It has also been observed by the learned Court below that the judgment and decree dated 25/02/2010 passed in Civil Suit No.90-A/05 has not been reversed in appeal. Infact, it has been recorded that both the parties have admitted that against that judgment and decree, no appeal was preferred. In this appeal, neither in the memo of appeal nor during the course of arguments, learned counsel for the appellant could satisfy this Court that any appeal was preferred against judgment and decree dated 25/02/2010.

5. In view of above, this appeal has no merits, therefore, not admitted and is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge