

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 467 of 2014

Bhukhan Bai D/o Janaram Sahu Aged About 45 Years R/o Village -
Goukana, Tah. Chhuikhadan, Distt. Rajnandgaon C.G.

---- Appellant

Versus

1. Umendra S/o Janaram Sahu Aged About 55 Years R/o Bhurbhusi, Tah.
Chhuikhadan, Distt. Rajnandgaon C.G.
2. State Of Chhattisgarh Through- Collector, Rajnandgaon C.G.

---- Respondents

Shri Vineet Kumar Pandey, counsel for the appellant/s.

Shri Utsav Mahiswar, counsel on behalf of Shri P.R.Patankar, counsel for
respondent No.1.

Shri Ramakant Pandey, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

25/01/2016

Heard.

This appeal is directed against impugned judgment and decree dated
27/06/2014 by which, the learned lower Appellate Court has dismissed the
appeal affirming judgment decree of the Trial Court.

2. Learned counsel for the appellant submits that the Courts below have
committed gross illegality and perversity in recording concurrent finding of fact
that the property in dispute is not the ancestral property but the self acquired
property of Janaram, father of the appellant. He submits that in para 7 of his
evidence, Umend (DW1) has admitted that the property is the ancestral property.
It is also submitted that according to the testimony of Umend (DW1), at the time

of purchase of land under various sale deeds (Ex.D/1 to Ex.D/11), Janaram and his grand father were residing together as joint family. Even according to plaintiff's evidence, the only source of income of Janaram was sale and purchase of cattle. Therefore, it was not possible for Janaram to acquire huge wealth by sale and purchase of cattle. These purchases were made out of the sale proceeds upon sale of ancestral property which Janaram inherited from his father – Foswaram.

3. Both the Courts below, in order to come to the conclusion that the property in dispute was self acquired and not the ancestral property have relied upon oral and documentary evidence of the defendant and disbelieved oral testimony of the plaintiff. The defendant has come out with the documentary evidence of purchase of property in dispute from time to time by Janaram in his own name under registered sale deeds Ex.D/1 to Ex.D/4. In these sale deeds, the only purchaser shown is Janaram.

4. It being a case of the plaintiff that the property was ancestral property, the burden was on the plaintiff to prove that the land in dispute was recorded in the name of father of Janaram and after his death, it devolved upon Janaram. The plaintiff also failed to plead or prove by cogent and oral evidence that the properties which were purchased by Late Janaram were purchased from the sale proceeds of sale of any ancestral property which Janaram inherited from his father.

5. In view of above, the findings recorded by the Courts below are purely a finding of fact based on oral and cogent evidence. Thus, there is no patent illegality or perversity in recording a finding with regard to the status of the property in dispute. Except this, no other ground has been raised by the appellant before this Court. No substantial question of law arises for consideration in this appeal. The appeal is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge