

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 473 of 2009**

1. Smt. Dashmati, Wd/o Late Sonadhar,
 2. Hamdhar, (Haldar as mentioned in impugned order), S/o Late Ajab Panka, Both R/o Village Borpadar, Tahsil – Jagdalpur, Distt. Bastar (C.G.)
 3. Bhosa Ram (Bhola Das as mentioned in impugned order), S/o Late Ajab Panka, Reader Tahsil Officer, Bhakawand, Distt. Bastar (C.G.)
 4. Baldhar, S/o Late Ajab Panka
 5. Mohan, S/o Late Ajab Panka,
 6. Tandru Ram (Tadru as mentioned in impugned order), S/o Late Ajab Panka,
 7. Appellants No. 4 to 6, R/o Village Jaitgiri, Block & Distt.- Bastar (C.G.)
-Defendants

---- Appellants**Versus**

1. Smt. Urmila, D/o Late Dashrath Panka, R/o Village Borpadar, Tahsil – Jagdalpur, Distt. Bastar (C.G.)
2. State of Chhattisgarh, Through – Collector, Bastar, Distt. Jagdalpur (C.G.)

---- Respondents

For Appellants	: Mr. Prafull N. Bharat, Advocate
For Respondent No. 1	: Mr. Manoj Paranjpe, Advocate
For Respondent No. 2	: Ms. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****05/08/2016**

(1) In a suit filed by respondent No.1/plaintiff for declaration of title, partition and possession, trial Court dismissed the suit after

having held that suit property is ancestral property and there is already partition among the plaintiff's father and defendants' father, against which respondent No.1/plaintiff preferred first appeal before the first appellate Court. The First Appellate Court has allowed the appeal holding that there was no prior partition between the plaintiff's father and defendants' father and, therefore, plaintiff is entitled for half share in the suit property

(2) The defendants preferred instant second appeal there-against.

(3) Learned counsel for the appellants/defendants would submit that finding recorded by the first appellate court is perverse and contrary to the record and that raises a substantial question of law for determination in this appeal.

(4) I have heard learned counsel appearing for the parties and perused the record of both the courts below with utmost circumspection.

(5) The finding recorded by the First Appellate Court holding that there is no partition between the plaintiff's father & defendant's father and, therefore, plaintiff is entitled for half share in the suit property is a finding of fact based on evidence available on records and I do not find it either perverse or contrary to record and no question of law much less substantial question of law is involved in this appeal.

(6) Accordingly, the second appeal fails and is hereby dismissed as the motion stage itself. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

