

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 8 of 2016

- Sadhram S/o Bhaktu @ Bukhauram Satnami, Aged About 65 Years R/o Sundravan, Tahsil Palari, District Baloda Bazar- Bhatapara (Chhattisgarh).....(Plaintiff)

---- Appellant

Versus

1. Bhagwati Bai D/o Mangnidas, Aged About 50 Years R/o Village Bohardih, Tahsil Palari, Ph. No. 15, District Baloda Bazar-Bhatapara (Chhattisgarh)
2. State Of Chhattisgarh Through Collector, District Raipur (Chhattisgarh) (Now Baloda Bazar - Bhatapara (Chhattisgarh)
3. Additional Collector, District Raipur, (Chhattisgarh) Now Baloda Bazar-Bhatapara (Chhattisgarh).....(Defendants)

---- Respondents

For Appellant	:	Shri H.V. Sharma, Advocate
For Respondent No.1	:	Shri S.C. Verma, Advocate
For State/Respondents No.2&3	:	Shri Vinod Deshmukh, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

07/07/2016

1. Heard.
2. The plaintiff – Sadhram filed a suit for declaration of title bearing Khasra No.233/2, area 0.93 stating inter-alia that he has purchased a suit property by registered sale deed. He also claimed that he is entitled for declaration of title and injunction so far as Khasra No.233/2, area 1.02 acre is concerned. The Trial Court vide its judgement and decree dated 24-09-2013 partly allowed the suit decreeing the suit to the extent of Khasra No.233/2, area 0.93 and dismissed the suit with regard to Khasra No. 233/2 area 1.02 acre. Against which defendant No.1 – Bhagwati Bai preferred a First Appeal challenging the finding regarding acquisition of title, the present

appellant/plaintiff also preferred cross-appeal. By the impugned judgement and decree, the first appellate Court dismissed the first appeal preferred by defendant No.1 – Bhagwati Bai and cross-appeal preferred by the plaintiff. Thereafter, appellant/plaintiff has preferred Second Appeal under Section 100 of the Code of Civil Procedure to the extent of 1.20 acre bearing Khasra No. 233/2.

3. Learned counsel for the appellant/plaintiff submits that the appellant/plaintiff has perfected his title by way of adverse possession over Khasra No.233/2, area 1.20 acre as he has purchased the suit land orally accompanied by delivery of possession.

4. Both the Courts below have clearly held that the plaintiff has not perfected his title by way of adverse possession and dismissed the suit. Such a finding based on evidence available on record and I do not find any infirmity and illegality in the said findings.

5. In a decision reported in **(2014) 1 SCC 669, Gurdwara Sahib Vs. Gram Panchayat Village Sirthala and another**, the Supreme Court has held that the plaintiff cannot maintain suit seeking declaration of title of ownership by adverse possession. He can defend the suit on the basis of plea of adverse possession, as such plaintiff suit for declaration of title on the basis of adverse possession was not maintainable.

6. The concurrent findings recorded by two Courts below are findings based on evidence available on record.

7. I do not find any perversity or illegality in the said findings and no substantial question of law is involved to be formulated for admission of this appeal. The appeal deserves to be dismissed and is accordingly, dismissed.

Sd/-
(**Sanjay K. Agrawal**)
JUDGE