

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 191 of 2013

Jawahirlal S/o Dhansai Aged About 60 Years R/o Tah. Malkharouda, Distt. Janjgir-Champa C.G.

---- Appellant

Versus

1. Manadas S/o Ghundu Aged About 50 Years R/o Charoudi, Tah. Malkharouda, Distt. Janjgir-Champa C.G.
2. Kusmukhhin W/o Chukul Aged About 75 Years R/o Charoudi, Tah. Malkharouda, Distt. Janjgir-Champa C.G.
3. Rabidas S/o Chukul Aged About 50 Years R/o Charoudi, Tah. Malkharouda, Distt. Janjgir-Champa C.G.
4. Chhabidas S/o Chukul Aged About 45 Years R/o Charoudi, Tah. Malkharouda, Distt. Janjgir-Champa C.G.
5. Kavidas S/o Chukul Aged About 40 Years R/o Charoudi, Tah. Malkharouda, Distt. Janjgir-Champa C.G.
6. Chhotelal S/o Chukul Aged About 35 Years R/o Charoudi, Tah. Malkharouda, Distt. Janjgir-Champa C.G.
7. State Of Chhattisgarh Through- The Collector, Distt. Janjgir-Champa C.G.

---- Respondents

Shri Awadh Tripathi, counsel for the appellant/s.
Ms. M. Asha, Panel Lawyer for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

08/01/2016

Heard on admission.

This appeal has been filed by the appellant / defendant No.1 aggrieved by judgment decree dated 13/03/13 by which, the appellant's appeal has been

dismissed affirming judgment decree of the Trial Court.

2. Learned counsel for the appellant argued that though the learned Trial Court as well as the Appellate Court both have dismissed the suit of the plaintiffs and no order passed in favour of the plaintiffs, while deciding various issues, finding adverse to the appellant's interest over the property in dispute has been recorded by the Court's below. It has been argued that even though the appellant acquired valid title under registered sale deed executed in his favour jointly by Deriha, Chukul and Ghundu Das for a valid consideration of Rs.7,700/- on 02/07/1986, the appellant cultivated the land ever since then, it has been perversely recorded by both the Courts below that the sale deed was not valid and his possession was also not lawful because after the sale deed dated 02/07/1986, name of plaintiffs / successors of Deriha, Chukul and Ghundu Das was recorded in the revenue records and defendant No.1 did not raise any objection.

It has been argued that mere correction of revenue records and recording of names of plaintiffs would not confer any title on them. It is further submitted that merely because the appellant / defendant no.1 did not move application for mutation, it would not mean, he is divested of the title in the property. It is next submitted that the attesting witness Ramdayal had proved valid execution of sale deed and criminal cases registered against him for creating forged documents has been dismissed. Non-filing of appeal against an order of injunction would not by itself divest the appellant of his title, validly acquired under the registered sale deed.

3. The present appeal has been preferred by the appellant against the judgment decree passed by the learned lower Appellate Court by which the judgment decree of dismissal of suit of respondent has been affirmed. Learned Courts below have found that the suit of the plaintiff was barred by limitation. Thus, judgment decree of the Courts below are in favour of the appellant as no decree has been granted in favour of the plaintiffs.

Upon being inquired, learned counsel for the appellant submitted that the judgment decree passed by the learned lower Appellate Court has not been assailed by the respondent / plaintiffs.

4. In view of the above, no substantial question of law arises for

consideration in this appeal because even if issues decided against the appellant are decided in his favour, there would be no material change in his favour.

5. Therefore, the appeal is dismissed, however, reserving liberty to the appellant to revive the same in the event, plaintiff assails legality and validity of impugned judgment decree or any right is asserted in any Court or proceedings on the basis of finding recorded by the learned lower Appellate Court against the appellant.

Sd/-

(Manindra Mohan Shrivastava)
Judge