

HIGH COURT OF CHHATTISGARH, BILASPUR**S.A No.508 of 2016**

1. Raju S/o Ledga, Aged About 49 Years R/o Village- Amlidih Khurd, P.S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh..... (Defendant No. 1)
2. Radhe Lal, S/o Ledga, Aged About 43 Years R/o Village- Amlidih Khurd, P.S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh..... (Defendant No. 2)

----Appellants

Versus

1. Mantora Bai D/o Ledga, Aged About 32 Years W/o Goverdhan, R/o Village- Amlidih Khurd, P. S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh, Presently R/o Village- Kurud, Post- Mandir Hasaud, District- Raipur Chhattisgarh.
2. Sukhia Bai, W/o Ledga, Aged About 65 Years R/o Village- Amlidih Khurd, P.S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh..... (Plaintiffs)
3. Bhaga Bai, D/o Ledga, Aged About 55 Years R/o Village- Amlidih Khurd, P.S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh.
4. Dani Bai, D/o Ledga, Aged About 52 Years W/o Dhani Ram, R/o Village- Amlidih Khurd, P.S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh.
5. Mulia Bai, D/o Ledga, Aged About 46 Years W/o Uttra Satnami, R/o Village- Amlidih Khurd, P.S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh.
6. Pouni Bai, D/o Ledga, Aged About 38 Years W/o Panna Lal Satnami, R/o Village- Amlidih Khurd, P.S. And Tahsil- Khairagarh, District- Rajnandgaon Chhattisgarh.
7. State Of Chhattisgarh, Through- The Collector, Rajnandgaon Chhattisgarh..... (Defendents No. 3 To 7)

-----Respondents

For Appellants:	Shri Ravindra Agrawal, Advocate.
For Respondent No.7/State:	Shri Vijay Bahadur Singh, Panel Lawyer.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

22.06.2017

1. Heard on admission.

2. This is the Appeal filed by the Defendants by questioning the judgment and decree dated 12.8.2016 passed by the Additional District Judge, Khairagarh, District Rajnandgaon in Civil Appeal No.5-A/2015 by which the lower appellate Court, while affirming the judgment and decree of the trial Court dated 31.1.2015 passed by the Civil Judge, Class-1, Khairagarh in Civil Suit No.34-A/2012, has dismissed the Appeal.

3. The undisputed facts of the case are that the Plaintiffs Mantora Bai and Sukhiya Bai instituted a suit by claiming declaration of title and injunction with regard to 1/8th share each with regard to the property left by one Ledga, the erstwhile owner of the property in question. It is pleaded in the Plaint that the Defendants No.1 & 2 have declined to provide their share in respect of the property in question, therefore the Plaintiffs are constrained to file the suit in the instant nature.

4. The Defendants have contested the aforesaid claim by submitting *inter alia* that Sukhiya Bai, Plaintiff No.2 was not the legally wedded wife of said Ledga and Mantora Bai was not born from their wedlock therefore, the Plaintiffs are not at all entitled to any share as claimed by them.

5. After considering the evidence of both the parties, the trial Court, by relying upon the documentary evidence particularly Ex.P-3, the birth certificate as well as the oral evidence led by the parties, has come to the conclusion that Mantora Bai is the daughter of Ledga born out of the wedlock of said Ledga and Sukhiya Bai and Sukhiya Bai is the widow of Ledga. In consequence, the Plaintiffs' claim was decreed.

6. The aforesaid findings of the trial Court have been affirmed further by the lower appellate Court in an Appeal preferred by the Defendants.

7. Being aggrieved, the Defendants have preferred this Appeal. Shri

Agrawal, learned Counsel for the Appellant submits that the judgment and decree passed by the Courts below by relying upon the documentary evidence (Exhibit Nos.2 & 3), which are inadmissible in evidence, therefore, the findings as recorded by the Courts below that the Plaintiffs are the legal heirs of said Ledga are not at all sustainable and therefore the judgment and decree under Appeal deserves to be set aside.

8. I have heard learned Counsel for the Appellants and perused the entire record carefully.

9. Undisputedly, the Plaintiffs have instituted a suit for declaration of title, partition and injunction by submitting *inter alia* that Plaintiff No.1-Mantora Bai is the daughter of Ledga and Plaintiff No.2-Sukhiya Bai is the widow of said Ledga. The trial Court as well as the lower appellate Court, while considering the documentary evidence particularly Ex.P-3, the birth certificate as well as the oral evidence of the parties, have arrived at a conclusion that the Plaintiff Mantora Bai is the daughter of said Ledga and Plaintiff No.2-Sukhiya Bai is his widow. In consequence, it was held by the Courts below that they are the legal heirs of said Ledga and entitled to inherit the suit property left by him. The said findings are pure findings of fact which even otherwise do not require to be interfered as it was based upon due and proper appreciation of the evidence of the parties. Consequently, the findings of the Courts below deserve to be and are hereby affirmed.

10. In view of the foregoing discussions, I do not find any question of law, much less the substantial question of law which arise for determination in this Appeal. Accordingly, the Appeal is dismissed at admission stage itself. There shall be no order as to costs.

Sd/-

(Sanjay Agrawal)
JUDGE