

**HIGH COURT OF CHHATTISGARH, BILASPUR****SA No. 604 of 2016**

- Bhagwat S/o Shri Ramchandiya Satnami, Aged About 40 Years R/o Village- Dhabadih, Thana & Tahsil- Balodabazar, Civil & Revenue District Balodabazar-Bhatapara, Chhattisgarh .....(Defendant 4-B)

---- **Petitioner****Versus**

1. Rukiman Bai W/o Late Shri Jeetram Satnami, Aged About 70 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
2. Vyasnarayan S/o Late Shri Jeetram Satnami, Aged About 55 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
3. Vyasbai D/o Late Shri Jeetram Satnami, Aged About 53 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
4. Gyanbai D/o Late Shri Jeetram Satnami, Aged About 50 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
5. Shanti Bai D/o Late Shri Jeetram Satnami, Aged About 48 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
6. Ghanshyam S/o Late Shri Jeetram Satnami, Aged About 42 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
7. Shyambai D/o Late Shri Jeetram Satnami, Aged About 38 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
8. Narendra S/o Late Shri Jeetram Satnami, Aged About 33 Years R/o Village- Khainda, Thana & Tahsil- Balodabajar, Civil & Revenue District- Balodabajar-Bhatapara, Chhattisgarh
9. Nanbai Wd/o Late Shri Adhinwa Satnami, Aged About 60 Years R/o Village Dharasiwa, Thana- Kasdol, Up-Tahsil- Lawan, Distt. Balodabajar-Bhatapara, Chhattisgarh
10. Kumar S/o Late Shri Adhinwa Satnami, Aged About 35 Years R/o Village Dharasiwa, Thana- Kasdol, Up-Tahsil- Lawan, Distt. Balodabajar-Bhatapara, Chhattisgarh
11. Ramsingh S/o Late Shri Jageshwar Satnami, Aged About 70 Years R/o Village Dhabadih, Thana & Tahsil- Balodabajar, Civil & Revenue District

Balodabajar-Bhatapara, Chhattisgarh

12. Bisheshar S/o Shri Ramchandiya Satnami, Aged About 45 Years R/o Village Dhabadih, Thana & Tahsil- Balodabajar, Civil & Revenue District Balodabajar-Bhatapara, Chhattisgarh
13. Kripal S/o Shri Ramchandiya Satnami, Aged About 38 Years R/o Village Dhabadih, Thana & Tahsil- Balodabajar, Civil & Revenue District Balodabajar-Bhatapara, Chhattisgarh
14. Bhagirathi S/o Shri Ramchandiya Satnami, Aged About 55 Years R/o Village Dhabadih, Thana & Tahsil- Balodabajar, Civil & Revenue District Balodabajar-Bhatapara, Chhattisgarh
15. State Of Chhattisgarh, Through Collector Balodabajar, District Balodabajar-Bhatapara, Chhattisgarh .....(Plaintiffs)

---- Respondents

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|----------------------------|---|---------------------------|
| For Appellant              | : | Shri Sunil Sahu, Advocate |
| For Respondent No.1 to 8   | : | Shri L.C.Dash, Advocate   |
| For Respondent No.15/State | : | Shri V.B.Singh, P.L.      |

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**Hon'ble Shri Justice Sanjay Agrawal**

**Order on Board**

**24.07.2017**

1. Heard on admission.
2. This is defendant's Second Appeal preferred under Section 100 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'Code of 1908' in short) against the judgment and decree dated 03.11.2016 passed in Civil Appeal No. 37-A/2005 by the 1<sup>st</sup> Additional District Judge, Baloda Bazar whereby the lower appellate Court, while affirming the judgment and decree dated 22.07.2015 passed in Civil Suit No.28-A/2014 by the Civil Judge, Class-I, Baloda Bazar, has dismissed the appeal.
3. The undisputed facts of the case are that the plaintiff Jeetram (since deceased now represented by his legal heirs) has instituted a suit for declaration of title and injunction by submitting, inter alia, that the suit property bearing Kh.

No. 294 admeasuring 0.178 hectares situated at village Dhabadih, Tahsil Baloda Bazar, District Raipur, was purchased by him under the registered deed of sale dated 29.06.1970 from one Jageshar and, accordingly, the revenue papers were mutated in his name on 25.06.1972. It is pleaded that by yet another registered deed of sale dated 26.05.1971, he purchased suit property bearing Kh.Nos.395 & 939/1 admeasuring 0.182 and 0.093 hectares, total admeasuring 0.275 hectares from said Jageshar and the revenue papers were also mutated in this regard vide order dated 22.06.1972. It is further pleaded that after purchasing the suit properties as such, he was continuously in peaceful possession over it, however, in the year 1999-2000, he came to know that the revenue papers were obtained by the defendants in their name. He, therefore, applied for correction of the revenue papers by filing an application before the Naib Tahsildar, Baloda Bazar where a case was registered as revenue case No.5A/6(A)/2000-01. The said revenue authority, vide its order dated 23.12.2000, has allowed the application, but in appeal, it was reversed by the S.D.O. (Revenue), Baloda Bazar in Revenue Appeal No.12A/6(A)-2001-02 and 28A/6(a)-2000-01. Therefore, the plaintiff has been constrained in filing the suit in the instant nature for declaration of title and injunction.

4. Defendants have contested the aforesaid claim by saying that no sale as such was ever executed by said Jageshar, the predecessor in their interest, in favour of the plaintiffs, and therefore, no right, title or interest would accrue upon him. It is pleaded further that even upon the alleged sale, the names of legal representatives of said Jageshar are still shown in revenue papers, which itself shows that the alleged registered deeds of sale was a forged documents and by which, the plaintiff is trying to grab the property in question. It is contended further on the ground that the suit as framed and instituted on 12.05.2003 is barred by time.

5. In support, the plaintiff has examined as many as two witnesses while the defendants have examined three witnesses in their support.

6. The trial Court, after considering the evidence led by the parties, has come to the conclusion that by virtue of the registered deeds of sale, dated 29.06.1970 (Ex.P.1) and 26.05.1971 (Ex.P.2), the plaintiff has acquired his interest over the property in question and held further that the suit is well within time.

7. The aforesaid findings of the trial Court have been affirmed further by the lower appellate Court in an appeal preferred by the defendant under Section 96 of the Code of 1908.

8. Being aggrieved, defendant Bhagwat has preferred this appeal. Shri Sunil Sahu, learned counsel for the appellant submits that the judgment and decree as passed by both the Courts below are not sustainable in the eye of law. He further submits that though the registered deeds of sale were executed in the year 1970 and 1971, but, no effort was ever made by the plaintiff to get the revenue papers mutated in his name, which itself shows that the alleged documents are forged documents. Without considering these material facts, the Courts below have erred in holding that by virtue of the said sale deeds (Ex.P.1 & Ex.P.2), the plaintiff has acquired valid title in respect of the property in question. He further submits that the suit was barred by time, therefore, the judgment and decree as passed by the Courts below deserve to be set aside.

9. I have considered the submissions of learned counsel for the appellant and perused the entire record carefully.

10. The plaintiff Jeetram has instituted a suit for declaration of title and injunction when the revenue papers were directed to be mutated in the name of defendants as per order dated 07.04.2003 passed by the Sub-Divisional Officer. The plaintiff Jeetram had purchased the suit property by virtue of the registered deeds of sale dated 29.06.1970 (Ex.P.1) and 26.05.1971 (Ex.P.2) and has thus prescribed his interest over the property in question. The vendor Jageshar had never questioned its validity during his lifetime and plaintiff, on the basis of alleged sales, was continuously enjoying the suit property. Merely by not obtaining the revenue papers would not divest his right or interest upon the suit

property purchased. Perusal of the plaint averments would, however, show that immediately after purchasing the property as such, the revenue papers were mutated in his name on 25.06.1972 and 22.06.1972 and upon enquiry made by him in the year 1999-2000, he came to know that this property is shown in revenue papers in the name of defendants. Immediately thereafter the plaintiff has applied for correction of revenue papers before the Naib Tahsildar, Baloda Bazar, who in turn, vide its order dated 23.12.2000 has corrected the same. However, it was set aside by the S.D.O. (Revenue), Baloda Bazar, vide its order dated 07.04.2003. In view of this fact, it cannot be held that the registered deeds of sale were a forged documents. Even otherwise, the burden was heavily upon the defendant to prove the alleged documents (Ex.P.1 & Ex.P.2) to be forged documents. However, neither any plea as required under Order 6 Rule 4 of the Code of 1908 nor any evidence was adduced by him in order to prove that the alleged documents have been obtained by the plaintiff by playing fraud upon his predecessor-in-interest, namely, Jageshar. Consequently, the findings as recorded by the Courts below holding that plaintiff is the owner of the suit property on the strength of the alleged deeds of sale (Ex.P.1 & Ex.P.2) based upon due and proper appreciation of the evidence led by the parties cannot be held to be a perverse one, therefore, deserve to be and are hereby affirmed.

11. In view of the foregoing discussion, I do not find any substance in this appeal as no question of law, much less, the substantial questions of law arise for determination in this appeal. Accordingly, the appeal, being devoid of merit, is hereby dismissed at admission stage itself. There shall be no order as to costs.

Sd/-

**(Sanjay Agrawal)**  
Judge