

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 356 of 2013**

- Umendram S/o Thanwar Verma Aged About 50 Years R/o Chherkapur, Resident- Jamdih, Tah. And P.S. Palari, Distt. Raipur C.G. ---- **Appellant**

Versus

1. Chhedin Bai & Ors. W/o Bhagwati Verma Aged About 58 Years R/o Cheerkapur, Resident- Jamdih, Tah. & P.S. Palari, Distt. Raipur C.G.
2. Jhadiram S/o Baisakhu Sahu Aged About 62 Years R/o Cheerkapur, Resident- Jamdih, Tah. & P.S. Palari, Distt. Raipur C.G.
3. Melabai W/o Hetram Verma Aged About 55 Years R/o Bagbuda, Tah. & P.S. Baloda Bazar, Distt. Baloda Bazar C.G.
4. State Of Chhattisgarh Thru- The Collector, Raipur, P.S. Raipur, Distt. Raipur C.G. ---- **Respondents**

For Appellant : Shri Ravindra Sharma, Advocate.
For Respondent No.4: Shri R.K.Jaiswal, Panel Lawyer

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****13/04/2017**

1. Heard on admission.
2. The plaintiff/appellant has filed this appeal 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 29.04.2013, by which, the appellate Court, while affirming the judgment and decree of the trial Court, has dismissed the appeal.
3. The undisputed facts of the case are that the plaintiff Umendram has instituted a suit for declaration of title and possession while submitting, inter alia, that he is the son of Kejabai, daughter of erstwhile owner, namely Pitamber. It is submitted further that after the death of his mother – Kejabai, the defendants No.1 & 3, namely, Chhedin Bai and Melabai have obtained and got the revenue papers

mutated in their name without the knowledge of the plaintiff and by taking undue advantage of it, they have denied the claim of the plaintiff. It is also pleaded by the plaintiff that some of the portion of the property in question was alienated by defendants No. 1 & 3 to defendant No.2 – Jhadiram. Thus, the defendants have denied his interest with regard to the property in question left by Pitamber, the erstwhile owner of the property in question. Therefore, the plaintiff has been constrained in filing the suit in the instant nature.

4. The defendants No. 1 & 3 have denied the aforesaid claim of the plaintiff by denying very specifically that the plaintiff Umendram is the son of Kejabai. They have pleaded further that Kejabai had expired issueless. It is also pleaded that as the plaintiff is not the son of Kejabai, therefore, he is not entitled to claim any interest over the suit property, as claimed by him.

5. The trial Court, while considering the evidence led by the parties and also considering the birth register (Ex.P.1), has held that the plaintiff Umendram is not the son of Kejabai. Consequently, the trial Court has dismissed the plaintiff's suit.

6. The aforesaid finding of the trial Court has been affirmed further by the lower appellate Court in an appeal preferred by the plaintiff. The appellate Court, in turn, after considering the evidence of the parties, has come to the conclusion that no document is available on record, by which, it could be presumed or held that the plaintiff is the son of Kejabai. Consequently, the appellate Court, while affirming the finding of the trial Court, has dismissed the appeal.

7. Being aggrieved by the aforesaid findings, the plaintiff has preferred this appeal. Shri Ravindra Sharma, counsel for the appellant, has submitted that both the Courts below erred in disbelieving the birth register (Ex.P.1) and that by misinterpreting the evidence led by the parties, the Courts below have erred in holding that the plaintiff is not the son of Kejabai. The findings so recorded, are therefore, perverse in nature and deserve to be set aside.

8. I have heard learned counsel for the appellant and perused the entire record carefully.

9. The entire case of the plaintiff is based upon the fact that he is the son of Kejabai. This material fact is required to be established by the plaintiff by producing the cogent and reliable evidence. The only document, which has been produced by the plaintiff is the birth register (Ex.P.1). The said document, however, would reveal that he is the son of one Thanwar. The said document was taken into consideration by the trial Court and it was held that merely on this ground it cannot be held that he is the son born out of wedlock of the Kejabai and Thanwar. In appeal, the appellant Court also held that no document is available on record, by which, it could be presumed that the plaintiff is the son of Kejabai. This finding is the purely finding of fact and it cannot be held to be perverse one as the same was arrived at not only by appreciating the evidence of the parties but was also by taking into consideration the documentary evidence, as produced by the plaintiff.

10. In view of above, no question of law, much less the substantial question of law involved in determining this appeal. Therefore, this appeal, being devoid of merit, is liable to be and is hereby dismissed at the admission stage itself. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge