

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****S.A No.75 of 2017**

Smt. Anju Bai W/o Pawan Kumar (Daughter Of Ankaluram Sonkar), Aged About 35 Years, R/o Old Nakapara, Near Mehta S.T.D., Charama, District North Bastar Kanker, Chhattisgarh .....(Defendant No.1)

---- Appellant

**Versus**

1. Pawan Kumar S/o Late Ratnu Ram Sonkar, Aged About 39 Years R/o Nayapara, Dhamtari, District Dhamtari, Chhattisgarh .....(Plaintiff)
2. State Of Chhattisgarh, Through The Collector, District North Bastar Kanker, Chhattisgarh .....(Defendant No.2)

---- Respondents

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| For Appellant:             | Shri DN Prajapati, Advocate. |
| For Respondent No.1:       | Shri Adil Minhaz, Advocate.  |
| For Respondent No.2/State: | Smt Shobha Kashyap, Dy. G.A. |

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

**22.09.2017**

1. This is the Defendant's Appeal preferred under Section 100 of the Code of Civil Procedure, 1908 (for short 'the CPC') against the judgment and decree dated 1.12.2016 passed by the Additional District Judge (FTC), North Bastar, Kanker in Civil Appeal No.11-A/2016, whereby the lower appellate Court, while affirming the judgment and decree dated 05.02.2016 passed by 1st Civil Judge, Class-I, North Baster, Kanker in Civil Suit No.12-A/2014, has decreed the Plaintiff's claim.

2. Briefly stated, the undisputed facts of the case are that Plaintiff Pawan Kumar instituted a suit claiming declaration and injunction against his wife Smt Anju Bai by submitting *inter alia* that he alone is the owner of the suit property described in Plaint Schedule-A by virtue of the 3 registered deed of sales executed on 17.01.2008, 04.04.2007 &

01.07.2008. It is pleaded further that Defendant No.1-Anju Bai has submitted an application for mutation as per the provisions prescribed under Sections 109 & 110 of the Chhattisgarh Land Revenue Code, 1959 (for short 'the Code of 1959') on 25.3.2011 before the Tahsildar, Kanker. It is submitted further that Tahsildar has allowed the said application and directed for mutation of her name also in the revenue papers vide order dated 28.08.2012, which was affirmed further by Sub Divisional Officer and Commissioner vide orders passed respectively on 11.04.2013 & 10.07.2015, giving rise to an instant action for declaration that the alleged orders as passed by the revenue authorities be declared as null and void.

3. Defendant No.1 has contested the aforesaid claim and stated that she has also contributed the amount while purchasing the suit property under the alleged sales (Exs.P-1, P-2 and P-3), therefore, the Plaintiff alone is not the owner of the suit property. It is contested further on the ground that while considering this fact, the revenue authorities have rightly passed the order under Sections 109 & 110 of the Code of 1959.

4. The trial Court, after considering the evidence led by the parties, has come to the conclusion by relying upon the registered deed of sales (Exs.P-1, P-2 & P-3) that the Plaintiff alone is the owner of the suit property. It held further that the revenue authorities, by ignoring these registered deed of sales, have erred in allowing the applications filed by Defendant No.1 while directing for mutation of her name in the revenue papers. As a consequence, the trial Court has decreed the Plaintiff's claim.

5. The aforesaid finding of the trial Court has been affirmed further by the lower appellate Court in an Appeal preferred by Defendant No.1 under

Section 96 of the CPC.

6. Being aggrieved, Defendant No.1 has preferred this Appeal. Shri DN Prajapati, learned Counsel for the Appellant submits that the judgment and decree as passed by the Courts below by not accepting the orders as passed by the revenue authorities is apparently contrary to law. He therefore submits that the judgment and decree passed by Courts below be set aside.

7. I have heard learned Counsel for the Appellant and perused the entire record carefully.

8. The Plaintiff's suit was essentially based on the registered deed of sales executed on 17.01.2008, 04.04.2007 & 01.07.2008 by which he has purchased the suit properties from different vendors as mentioned in the said sale deeds. Once the registered deed of sale was executed and registered in the name of Plaintiff-Pawan Kumar, then the revenue authorities ought not to have overlooked the same while allowing the application of Defendant No.1 by directing her name also to be recorded in the revenue papers. The entire approach of the revenue authorities is apparently contrary to law. The Courts below, while considering the registered deed of sale, have therefore rightly come to the conclusion that the Plaintiff-Pawan Kumar alone is the owner of the suit property and the revenue authorities have thus erred in allowing the application of Defendant No.1 filed under Sections 109 & 110 of the Code of 1959. The findings so recorded are based upon due and proper appreciation of the documentary evidence like registered deed of sales (Exs.P-1, P-2 & P-3), therefore, the same deserves to be and is hereby affirmed.

9. In view of the foregoing discussions, I do not find any question of

law, much less the substantial questions of law which arise for determination in this Appeal. Accordingly, the Appeal being devoid of merits is hereby dismissed at the admission stage itself. There shall be no order as to costs.

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

Priya