

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**S.A No.362 of 2016**

Heeralal S/o Chainuram Teli, Aged About 65 Years R/o Village Bhoinapar,
Tehsil Balod, Civil And Revenue District Balod, Chhattisgarh.....(Plaintiff)

---- Appellant**Versus**

1. Heeralal S/o Mohanlal Teli, Aged About 55 Years R/o Village Mongari, Tehsil Gunderdehi, District Balod, Chhattisgarh
2. Dilesh Kumar, S/o Mohanlal Teli, Aged About 45 Years R/o Village Bhoinapar, Tehsil Balod, District Balod, Chhattisgarh
3. Ramesh Kumar S/o Mohanlal Teli, Aged About 35 Years R/o Village Bhoinapar, Tehsil Balod, District Balod, Chhattisgarh
4. The State Of Chhattisgarh Through Collector, District Balod, Chhattisgarh
5. Sub Divisional Officer (Revenue) Balod, District Balod, Chhattisgarh
6. Commissioner Raipur, Division, District Raipur, Chhattisgarh.....
(Defendants)

-----Respondents

For Appellant:	Shri PP. Sahu, Advocate.
Respondents No.4 to 6/State:	Shri RK Jaiswal, Panel Lawyer.

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

10.11.2017

1. This is the Plaintiff's Second Appeal preferred under Section 100 of the Code of Civil Procedure, 1908 (for short 'the CPC') against the judgment and decree dated 31.03.2016 passed by the 1st Additional District Judge, Balod, Distt. Balod, in Civil Appeal No.6400053-A/2014 by which, the lower appellate Court, while affirming the judgment and decree dated 16.08.2012 passed by the Civil Judge, Class-I, Balod, Distt. Balod in Civil Suit No.41-A/2012, has dismissed the Plaintiff's suit.
2. The undisputed facts of the case are that the Plaintiff-Heeralal, S/o Chainuram instituted a suit claiming declaration of title and injunction with

regard to the property in question bearing Khasra No.378/18 admeasuring 1350 sq.ft situated at village Bhoinapar, Tahsil Balod, Distt. Balod. It is pleaded in the Plaint that the Plaintiff is in possession over the suit property, however, his possession is being disturbed by the Defendants on the ground that one lease deed has been granted in their favour. It is pleaded further that in a proceeding initiated by him under Sections 107 and 116(3) of Code of Criminal Procedure, 1973 where Defendant No.1 has submitted a lease deed and set up his ownership with regard to the suit property. Upon knowing the said fact, the Plaintiff has filed the application for grant of lease before the Tahsildar Balod, who in turn, vide its order dated 29.6.2004 has granted him the lease deed with regard to the property in question. It is pleaded further that the said order was reversed by Sub Divisional Officer, Balod vide its order dated 30.7.2005. The said order was affirmed further by the Collector and ultimately by Commissioner, Raipur by its order dated 31.12.2010. Therefore, the Plaintiff has been constrained to file the suit in the instant nature.

3. Defendant Nos.1 & 2 have contested the aforesaid claim and denied very specifically that the Plaintiff is the owner of the suit property. They pleaded further that the lease deed was granted in their favour and the revenue authorities have rightly set aside the Tahsildar's order dated 29.6.2004 and the Plaintiff's claim is therefore liable to be dismissed.

4. The trial Court, after considering the evidence led by both the parties, has come to the conclusion that the Plaintiff has failed to produce any document with regard to his ownership. As a consequence, the trial Court has dismissed the suit.

5. The aforesaid finding of the trial Court has been affirmed further by

the lower appellate Court in an Appeal preferred by the Plaintiff.

6. Being aggrieved, the Plaintiff has preferred this Appeal. Shri P.P Sahu, learned Counsel for the Appellant submits that the judgment and decree as passed by the Courts below are apparently contrary to law. He submits further that the order as passed by the Tahsildar on 29.6.2004 has wrongly been reversed by the Sub Divisional Officer vide its order dated 30.07.2005 and the same was wrongly affirmed further by the Collector and Commissioner, Raipur. He therefore submits that the Courts below have committed an illegality in dismissing the Plaintiff's claim.

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

8. The Plaintiff has filed a suit claiming declaration of title with regard to the property in question bearing Khasra No.378/18 admeasuring 1350 sq.ft situated at village Bhoinapar, Tahsil Balod, Distt. Balod on the ground that he is in possession over the same and has acquired his right by virtue of the lease deed granted by the Tahsildar, Balod vide its order dated 29.6.2004 and praying further that the order as passed by the Commissioner, Raipur on 31.12.2010 be declared as null and void. In order to establish the ownership with regard to the property in question, it is the bounden duty of the Plaintiff to produce the cogent and reliable evidence to establish the same. However, the Plaintiff has failed to produce any document showing his ownership with regard to the suit property. As far as the order passed by the Tahsildar, Balod on 29.6.2004 is concerned, the same was questioned by Defendant No.1 before the Sub Divisional Officer, Balod who in turn, while registering the case as Revenue Case No.58-A/66/2003-2004 has, set aside the same vide its

order dated 30.7.2005.

9. Perusal of the record would show further that the order passed by the Sub Divisional Officer, Balod reversing the order date 29.6.2004 of the Tahsildar, Balod was affirmed further by the Collector, Durg and was affirmed further by the Commissioner, Raipur vide its order dated 31.12.2010. Perusal of the record would therefore show that there is no document as such produced by him so as to hold that the Plaintiff has acquired any right, title or interest over the suit property. In view of the said fact, I am of the opinion that the Courts below have not committed any illegality in arriving at a conclusion that the Plaintiff is not the owner of the suit property. The findings therefore deserve to be and are hereby affirmed.

10. Consequently, 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