

**HIGH COURT OF CHHATTISGARH, BILASPUR****Second Appeal No.572 of 2016**

1. Janakram S/o Panchu Dhobi, Aged About 60 Years R/o Village- Chandeli, District- Balodabazar-Bhatapara, Chhattisgarh

2. Jantram S/o Panchu Dhobi, Aged About 58 Years R/o Village- Chandeli, District- Balodabazar-Bhatapara, Chhattisgarh .....(Defendants)

**---- Appellants**

**Versus**

1. Jeerabai D/o Guharam Dhobi, Aged About 70 Years R/o Paunsari, Tahsil- Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh ..... (Plaintiff)

2. Ashok Kumar Jain S/o Indra Kumar Jain, Office Address- Jain Transport, New Bus Stand, Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh

3. State Of Chhattisgarh, Through The Collector, Balodabazar, District- Balodabazar-Bhatapara, Chhattisgarh .....(Defendants)

**-----Respondents**

For Appellants:

Shri LC. Dash, Advocate.

For Respondent No.3/State:

Shri RK. Jaiswal, Panel Lawyer.

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

**09.03.2017**

1. This is an Appeal filed by Appellants/Defendants under Section 100 of CPC against the judgment and decree dated 5.10.2016 passed by the 3rd Additional District Judge, Baloda Bazar in Civil Appeal No.H-34-A/2015 by which the appellate Court, while affirming the judgment and decree of the trial Court dated 27.6.2015, has dismissed the Appeal.

2. The undisputed facts of the case are that Respondent No.1/Plaintiff – Jeerabai has instituted a suit for declaration of title with regard to the property described in Plaint Paragraph-4 by submitting *inter alia* that she is the exclusive owner of the said properties inherited after the death of her brother – Bodhram. It is pleaded that the said properties were admittedly held by her

father – Guharam who expired in the year 1952, leaving behind him three daughters and one son namely Leela Bai, Jeera Bai, Heera Bai and Bodhram. It is pleaded further that Leela Bai has expired issue less and Bodhram also expired issue less in the year 1996 and Heera Bai, the mother of Defendants also expired in the year 1973. It is averred further that after the death of Guharam in the year 1952, the entire property was inherited by his sole son Bodhram as per the law prevailing at the relevant point of time. Since Bodhram has expired in the year 1996 and prior to his death, the mother of Appellants/Defendants namely Heera Bai has expired in 1973, therefore being the only heir as prescribed in Section 8, Class-II, Entry-IV of the Hindu Succession Act, 1956, she alone inherited the entire property and had executed a registered deed of sale by alienating the entire said properties except Khasra No.450 area 0.061 hectares to Defendant No.3– Ashok Kumar Jain. It is pleaded further in the Plaint that the Defendants, without any authority, have succeeded in obtaining the revenue papers recorded in their names and based on the said entries, started questioning her ownership with regard to the property in question, therefore, the Plaintiffs have been constrained to file a suit in the instant nature, instituted on 23.10.2007.

3. The Defendants have contested the aforesaid claim of the Plaintiffs and stated that their mother Heera Bai was also entitled to inherit the property along with her sister Jeera Bai after the death of her brother Bodhram and revenue papers were rightly recorded in their names.

4. The trial Court, after considering the evidence led by both the parties, has come to the conclusion that after the death of Guharam in the year 1952, his entire property was inherited by his sole son Bodhram. It was also held that since Heera Bai, mother of the Defendant has expired in the year 1973,

prior to her brother Bodhram and therefore, after the death of Bodhram, the entire property was inherited by his sole surviving sister namely Jeera Bai (Plaintiff). As a consequence, the trial Court has decreed 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 Defendants.

6. Being aggrieved with the aforesaid findings of the Court below, the Defendants have preferred this Second Appeal. Shri Dash, learned Counsel for the Appellants has submitted that the findings as recorded by the lower Appellate Court without examining the proper legal position as provided under the Hindu Succession Act, 1956 are perverse and therefore, deserves to be set aside.

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

8. Undoubtedly, the entire property was originally held by Guharam and after the death of Guharam in the year 1952, it was inherited by Bodhram as per the law prevailing at the relevant point of time. It is also evident from the record that during the life time of Bodhram, his sisters, except Plaintiff-Jeera Bai, have expired and therefore, after the death of Bodhram in the year 1996, the entire property was inherited by Jeera Bai, the Plaintiff as per the provisions prescribed under Section 8, Class-II Entry – IV of the Hindu Succession Act, 1956. Since the property was inherited by her (Plaintiff-Jeera Bai) as per the law and therefore, she alone was the owner of the property in question and therefore, the Defendant being the son of Heera Bai, who was pre-deceased to her brother Bodhram was not entitled to question the ownership of Jeera Bai with regard to the property in question as she was the only heir by inheriting the property after the death of her brother in 1996.

9. In view of above, I find that no question of law, much less, the substantial question of law in this Appeal. Consequently, the Appeal being devoid of merit is hereby dismissed at admission stage itself. No order as to costs.

Sd/-

(Sanjay Agrawal)  
**JUDGE**

Priya