

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 622 OF 2016**

Gangaram S/o Chandulal Sahu, Aged About 45 Years R/o Village- Ranwa,
Tahsil & District Dhamtari, Chhattisgarh

---- Appellant**Versus**

1. Praveen Kumar S/o Dayalu Ram Sahu, Aged About 37 Years R/o Ranwa Tahsil & District- Dhamtari, Chhattisgarh
2. Shatruhan S/o Chamru Ram Kalar, Aged About 42 Years R/o Ranwa Tahsil & District- Dhamtari, Chhattisgarh
3. State of Chhattisgarh, Through The Collector, Dhamtari, District- Dhamtari, Chhattisgarh

---- Respondents

For Appellant	:	Mr. K. A. Ansari, Sr. Advocate with Mr. Vipin Singh, Advocate
For Respondent No. 1	:	Mr. Somnath Verma, Advocate
For Respondent No. 3/State	:	Ms. Shobha Kashyap, Dy. Govt. Advocate

Hon'ble Shri Sanjay Agrawal, J.**Judgment On Board****21/09/2017**

1. This is a second appeal preferred by the plaintiff under Section 100 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') against the judgment and decree dated 05/11/2016 passed by the District Judge, Dhamtari (C.G.) in Civil Appeal No. 68-A/2016, by which, the lower appellate Court while affirming the judgment and decree dated 24/09/2014 passed by First Civil Judge,

Class-II, Dhamtari District Dhamtari (C.G.) in Civil Suit No. 120-A/13, has dismissed the plaintiff's suit.

2. Undisputed facts of the case are that the plaintiff Gangaram instituted a suit claiming declaration of title and injunction with regard to the property in question bearing Kh. No. 1397/1 area 0.01 आरे. It is pleaded that the said property was purchased by his grandfather Koduram in the year 1960 and since then, he is in possession over the property in question. It is pleaded further that when an order was passed by the Superintendent of Land Records, Dhamtari on 07/05/2008 in Revenue Case No. 86-A/6-A/2007-08, by correcting revenue entires therefore, the plaintiff has been constrained to file the suit in the instant nature, instituted on 08/11/2011.

3. The defendants have contested the aforesaid claim and stated very specifically that the plaintiff is not the owner of the property in question.

4. The trial Court after considering the evidence led by the parties, has come to the conclusion by observing at Paragraph 11 that the plaintiff has failed to produce any document in order to establish the fact that the said suit property was purchased by his grandfather Koduram from Amrit Rao in the year, 1960. As a consequence, the trial Court has dismissed 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 the plaintiff under Section 96 of the CPC. The appellate Court, in turn, has also observed the material fact at Paragraph-15 of its judgment and come to the conclusion that no document pertaining to deed of title was produced by the plaintiff in order to show his ownership regarding the suit property. In consequence, the lower appellate Court while affirming the finding of the trial Court has dismissed the plaintiff's suit.

6. Being aggrieved, the plaintiff has preferred this appeal. Mr. K. A. Ansari, learned senior 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 property in question was purchased by the plaintiff's grandfather Koduram in the year 1960 and was continuous in possession for over more than 50 years, and has thus prescribed his interest by way of adverse possession. However without considering this material fact, the Courts below have committed illegality in holding that the plaintiff is not the owner of the suit property. He lastly submits that the judgment and decree as passed by the Courts below deserves to be set aside.

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

8. The plaintiff's entire suit is based on the fact that his grandfather Koduram had purchased the suit property bearing Kh. No. 1397/1 area 0.01 आरे (old number 450) from one Amrit Rao. In order to establish the said fact that his grandfather had purchased the suit property in the year 1960, the burden was heavily upon the plaintiff to prove the said fact by producing the cogent and reliable evidence in this regard. However, from perusal of the record would show that no document as such could have been produced by the plaintiff in order to establish the same. Since no document was produced in this regard, therefore, it is difficult to hold that the plaintiff's grandfather Koduram had purchased the suit property in the year 1960, as alleged by the plaintiff. The findings so recorded by the Courts below are based on due and proper appreciation of evidence of the parties. 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 question of law which arise for determination in this

appeal. Consequently, 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

Yogesh