

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 6 of 2017**

1. Neera Bai W/o Teej Ram Gond, Aged About 80 Years R/o Village Farhada, Tahsil Akaltara, Distt. Janjgir-Champa, Chhattisgarh(Defendant No.1 A)
2. Manharan Singh S/o Teej Ram Gond, Aged About 65 Years Occupation Agriculture Work, R/o Village Farhada, Tahsil Akaltara, Distt. Janjgir-Champa, Chhattisgarh(Defendant No.1 B)

---- Appellants**Versus**

1. Dhan Singh S/o Tilkesh Gond, Aged About 50 Years R/o Village Farhada, Tahsil Akaltara, Distt. Janjgir-Champa, Chhattisgarh(Plaintiff)
2. Anjor Singh S/o Tilkesh Gond, Aged About 40 Years R/o Village Farhada, Tahsil Akaltara, Distt. Janjgir-Champa, Chhattisgarh(Defendant No.2)
3. Hemin Bai D/o Tilkesh Gond, Aged About 45 Years Occupation Agriculture Work, R/o Village Basna (Beltara), Tahsil Bilaspur, Distt. Bilaspur, Chhattisgarh(Defendant No.3)
4. Guruwari Bai W/o Devcharan Gond, Aged About 30 Years Occupation Agriculture Work, R/o Village Aamapali, Tahsil Shakti, Distt. Janjgir-Champa, Chhattisgarh(Defendant No.1 C)
5. Budhau Singh S/o Teej Ram Gond, Aged About 27 Years Occupation Agriculture, R/o Village Farhada, Tahsil Akaltara, Distt. Janjgir-Champa, Chhattisgarh(Defendant No.1 D)
6. State Of Chhattisgarh, Through Collector Janjgir-Champa, Distt. Janjgir-Champa, Chhattisgarh(Defendant No.4)

---- Respondents

For Appellants	:	Shri Chandra Bhushan Kesharwani and Shri K.P.S. Gandhi, Advocates.
For Respondent No.6/State	:	Shri V.B.Singh, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****09/03/2017**

1. This is defendants' second appeal filed under Section 100 of the Code of

Civil Procedure, 1908 (hereinafter referred to as 'the Code' in short) against the judgment and decree dated 21.10.2016 passed by the 1st Additional District Judge, Janjgir, Dist. Janjgir-Champa (C.G.) in Civil Appeal No. 12-A/2015, by which, the lower appellate Court while affirming the judgment and decree dated 31.03.2012 passed by the Civil Judge, Class-I, Akaltara in Civil Suit No. 114A/2011, has dismissed the appeal.

2. Briefly stated the facts of the case are that the plaintiff Dhansingh had instituted a suit for declaration of title, injunction and for possession by submitting, inter alia, that the property in question belongs to his father Tilkesh and after his death, he inherited the said property along with his brother and sister. It is pleaded in the plaint that the defendant Teejram (since deceased represented by his legal representatives) obtained the revenue papers in his name, as per the order of the Naib Tahasildar dated 19.01.1990 and based upon which started disputing the ownership of the plaintiff, and therefore, the plaintiff has been constrained in filing the suit in the instant nature, instituted on 24.12.1990.

3. The defendants (legal representatives of deceased Teejram) have contested the aforesaid claim by submitting, inter alia, that Teejram had purchased the property in the year 1967 by virtue of an agreement to sale from one Sambharit Bai, the widow of original holder Tilkesh. It is pleaded further that the said property was purchased by virtue of the said agreement to sale not only from Sambharit Bai but also from Anjore Singh and Hemin Bai. It was pleaded further that since he was in continuous possession over the suit property from the date of alleged agreement to sale, therefore, the plaintiff's claim as made is liable to be dismissed.

4. The trial Court, after examining the evidence adduced by the parties, has come to the conclusion that the plaintiff Dhansingh is the owner of the suit property as the alleged agreement to sale, based upon which, the defendants

were claiming their right, was in fact, not produced before the Court below. Even otherwise, the said document was admittedly unregistered, and therefore, no right over the property in question could be conferred upon them. In consequent, the trial Court decreed the plaintiff's claim in its entirety. The aforesaid findings of the trial Court were affirmed further by the lower appellate Court in an appeal preferred by defendants under Order 41 Rule 1 read with Section 96 of the Code.

5. Being aggrieved by the aforesaid concurrent findings, the appellants/defendants have preferred this appeal.

6. Shri C.B.Kesharwani and Shri K.P.S.Gandhi, learned counsel for the appellants submit that though the document (agreement to sale) was unregistered but it was the admitted fact that the defendants have been in continuous possession over the said property since 1967 when it was executed , therefore, the findings, as recorded by the Courts below are liable to be set aside.

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

8. Undisputedly, the property in question was originally held by Tilkesh and after his death, it was inherited by his son Dhansingh and other members of Tilkesh. From perusal of the record, it is evident that no document as claimed by the defendants was even produced before the Courts below. Even upon consideration of the submissions as advanced by the defendants, the same are liable to be rejected as the right, title or interest with regard to any immoveable property would confer upon the purchaser like Teejram only on the basis of sale deed and registered document, if the value of the property is more than worth Rs.100/-. Here is the case where no document was even submitted by the defendants, therefore, from any angle, it cannot be held that the defendants are the owners of the property in question.

9. In view of the foregoing discussions, no questions of law, much less, the

substantial questions of law would arise for determination in this appeal. Consequently, the appeal, being devoid of merit, is hereby dismissed at the admission stage. There shall be no order as to costs.

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

Anjani